

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

STUDENTS FOR FAIR ADMISSIONS, *
INC., *
*
Plaintiff, * Case No. 1:14CV954
*
vs. *
* November 16, 2020
UNIVERSITY OF NORTH CAROLINA, *
et al., * **Volume 5**
* **Pages 759-925**
Defendants. *

EXPEDITED TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE LORETTA C. BIGGS
UNITED STATES DISTRICT JUDGE

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P R O C E E D I N G S

THE COURT: Good morning.

All right. If you would call your next witness, please.

MR. FITZGERALD: Your Honor, can we address just scheduling matters briefly?

THE COURT: Yes, we can do that.

MR. FITZGERALD: So, Your Honor, I think, just as a preview of where we think the week is going -- and I've been talking with Mr. McCarthy and Intervenor counsel -- Ms. Brennan will question Dr. Abigail Panter this morning, and that will take a considerable part of the day but not a whole day, and with the grace of the Intervenors moving their schedule around, we should have two Intervenor witnesses this afternoon, one live, one Zoom.

Then tomorrow we will begin the day with Dr. Caroline Hoxby, who will appear remotely. That will be a substantial examination and cross-examination, and we think it may consume the day. It could spill over. Maybe it's a little bit short, but given the density of the expert testimony, I wouldn't be surprised if we spilled a little bit into Wednesday.

THE COURT: All right.

MR. FITZGERALD: And then on Wednesday morning, the last expert from UNC will testify, Dr. Long. She is a briefer expert, much shorter in terms of time for both the direct and, from talking to counsel, the cross. And then I believe the

1 Intervenor are looking to add to the schedule two Intervenor
2 witnesses on Wednesday and may have some more.

3 **MS. TORRES:** We have three confirmed, possibly four.

4 **THE COURT:** For Wednesday?

5 **MS. TORRES:** For Wednesday. They are 45 minutes each,
6 so they should fit on Wednesday.

7 **MR. FITZGERALD:** With that adjustment by the
8 Intervenor, which is much appreciated by all, we should be in
9 a position for the -- I think the Intervenor will either have
10 two or three witnesses left for Thursday morning.

11 **THE COURT:** All right.

12 **MR. FITZGERALD:** I know there's an issue Mr. McCarthy
13 wants to raise about -- I'll let him raise. But the
14 anticipation for the parties was looking to close on Thursday
15 and finish the case on that day, and that would save the Court
16 a day on Friday.

17 And with regard to that, I just wanted to raise the issue
18 of closings. And the request on the UNC side is, Your Honor,
19 we obviously -- it's an important case. There's a lot of dense
20 information that has come in, and while we had originally
21 sought to ask the Court for two hours to sum up our side, we
22 think we can cut it to an hour and half, but not beyond that,
23 Your Honor, because we think we would like to go through the
24 testimony while it's fresh in everyone's head.

25 And then the only other thing I would add, it would be our

1 intention, if the Court is willing, that Ms. Brennan and I
2 would split the closing. She has led the fact witnesses
3 principally, and I have led the expert witnesses, and so there
4 would be no overlap. I just didn't want to surprise the Court
5 on Thursday by telling you that then.

6 **THE COURT:** All right.

7 **MR. FITZGERALD:** So that would be our request, is to
8 try to do it on Thursday and have an hour and a half on our
9 side. We would agree, obviously, to the same for Plaintiffs,
10 and I understand the Intervenor would ask for 20 minutes.

11 **THE COURT:** All right. Thank you.

12 Yes, sir.

13 **MR. MCCARTHY:** Your Honor, we appreciate everybody
14 working together on this, and we are respectful of the Court's
15 time, and we are thankful the Intervenor shuffled some
16 witnesses around in order to try to move things forward more
17 quickly. So we're all in agreement on that.

18 In terms of closings, we -- we were initially going to
19 propose 45 minutes each side, but we think 60 should be enough,
20 especially if we're trying to get done on Thursday. We think
21 it would be best to confine those as best we can. There's been
22 a decent amount of evidence in this case, but it hasn't been
23 the longest case in history. I think we did openings in about
24 25 minutes each.

25 And in particular, one thing that we wanted to make clear

1 is that we had reserved our rights to recall our expert
2 witnesses as rebuttal witnesses at the end of trial. I don't
3 know that we will do that, probably won't know until
4 Professor Hoxby -- Dr. Hoxby is done. But we reserve our right
5 to do that, and we don't expect that if we do, that would be
6 very long. We still hope that we could try to finish this
7 thing up on Thursday. So I think that, too, factors into the
8 timing in terms of closings.

9 I should note that, like Mr. Fitzgerald, we may split
10 closing too. We haven't worked that out yet, but it's a
11 possibility. So I wanted the Court to know that right away.

12 **THE COURT:** All right.

13 **MR. MCCARTHY:** Thank you.

14 **THE COURT:** Yes, sir.

15 **MR. FITZGERALD:** Your Honor, we would oppose recalling
16 experts at this point. Obviously, we can deal with that issue
17 when it comes. But just so there's transparency in our
18 position, I think both Professor Arcidiacono and Mr. Kahlenberg
19 testified at great length, and they talked about their
20 criticisms of Dr. Hoxby, principally, and indicated what they
21 think of her criticisms of them and their criticisms of her
22 work.

23 We think it would be inappropriate at this point to then
24 let them get the last word, particularly where we have the
25 burden of proof in this case. I'm not saying we have a

1 rebuttal case, but we have the burden of proof. We think it
2 would be inappropriate. Frankly, if they're going to reserve
3 the right to recall either Professor Arcidiacono or
4 Mr. Kahlenberg, then I certainly want to reserve the right that
5 we can then respond.

6 I feel like there's a point at which there are diminishing
7 returns, and I think we will probably all deep down feel by the
8 end of the next two days that we've probably heard enough
9 expert testimony, and I certainly wouldn't want to allow that
10 to happen to the detriment of us being allowed to explain our
11 case where our clients have been accused of a constitutional
12 violation, where the issues for the university are very, very
13 fundamental and go beyond this case.

14 So we would strongly ask for an hour and a half. If we can
15 do it shorter, we will, but we think we need to give the
16 arguments justice in the right amount of time.

17 **THE COURT:** There is no question I will give each of
18 you the amount of time that you need in closing.

19 I will reserve ruling on this issue of recalling experts
20 and the need to do that until such time that it becomes a
21 serious issue. I understand his desire to reserve any rights
22 that he may have to that, but the Court is not inclined to
23 relitigate that part of the case. It was very clear, very
24 detailed. They had an opportunity to -- we heard a lot about
25 what they believe about the testimony of the witnesses that

1 we're about to hear. So we will just make that determination
2 at that time.

3 **MR. MCCARTHY:** Thank you, Your Honor.

4 I'll note that if we believe that we need to do that, we
5 will certainly work with the parties first to propose something
6 before we take it to Your Honor --

7 **THE COURT:** I would appreciate that.

8 **MR. MCCARTHY:** -- as we've done so far working
9 something out and limiting the issues for the Court to have to
10 decide.

11 **THE COURT:** Thank you. All right.

12 **MR. FITZGERALD:** Thank you, Your Honor.

13 **THE COURT:** Anything further?

14 **MR. FITZGERALD:** I will excuse myself and be replaced
15 to keep within the limit. Thank you, Your Honor.

16 **THE COURT:** Thank you.

17 Yes, ma'am, if you would call your next witness, please.

18 **MS. BRENNAN:** Thank you, Your Honor.

19 The UNC Defendants call Dr. Abigail Panter.

20 **ABIGAIL PANTER, DEFENDANT UNC WITNESS, SWORN**

21 **DIRECT EXAMINATION**

22 **BY MS. BRENNAN:**

23 **MS. BRENNAN:** Your Honor, may Dr. Panter remove her
24 mask?

25 **THE COURT:** Yes.

1 Q. Good morning, Dr. Panter.

2 A. Good morning.

3 Q. Could you please take a moment and introduce yourself to
4 the Court and share your current position at the university?

5 A. Yes. My name is Abigail Panter. I'm the senior associate
6 dean for undergraduate education at the University of
7 North Carolina at Chapel Hill. I'm also a professor of
8 psychology and neuroscience at the university.

9 Q. Let me take you back for a moment and ask you a little bit
10 about your background. Where did you grow up?

11 A. I grew up in a small town that's north of New York City
12 that's in Rockland County, New York, on the Hudson River.

13 Q. And can you talk about your family?

14 A. Yes. My parents are professionals, my dad a physician. My
15 mom passed early, but she was a professional musician and
16 writer. And they are -- they're really loving parents who
17 prioritized our education and allowed us to be free in our
18 pursuits and our passions, which we each did have passions. So
19 they're really supportive in all of the ways you hope for for
20 parents.

21 Q. You mentioned passions. What were some of your passions as
22 you were growing up?

23 A. I -- I play the cello, and so I was a musician also, and so
24 I did a lot of work in playing in ensembles and all around in
25 my town and area, my school, and in New York City.

1 Q. Where did you attend college?

2 A. So I attended Wellesley College. It was my first choice,
3 and I was thrilled to go, and I loved being there. So while I
4 was there, I -- I studied psychology, which is my area, as well
5 as French studies, which is an interdisciplinary study of
6 literature, language, and music.

7 Q. Did you receive a degree from Wellesley?

8 A. Yes. In 1985, I received my degree, and I went
9 straightaway to graduate school to a doctoral program at
10 New York University in psychology in the area of social
11 personality psychology.

12 Q. Did you receive a degree at NYU?

13 A. Yes, I received two degrees at NYU. So I graduated from
14 Wellesley in 1985. I received my master's in 1987, and I
15 received my Ph.D. in 1989.

16 Q. What was your first position after you received your Ph.D.?

17 A. I -- my first position was at UNC-Chapel Hill, the
18 University of North Carolina at Chapel Hill. It was really
19 the -- it's the top program in what I do, which is personality,
20 social, individual differences and quantitative psychology; and
21 I was thrilled to have it. I did a national search, and this
22 was -- it was the top space, and I was thrilled to be there.

23 Q. What year did you join UNC?

24 A. In 1989. I went straight from my -- finishing my Ph.D. to
25 driving down from New York to Chapel Hill.

1 Q. Have you been there continuously since?

2 A. Yes.

3 Q. Did you go through the tenure promotion process at the
4 university?

5 A. I did.

6 Q. Can you describe that?

7 A. Yeah. So as -- as always, you -- if you have an assistant
8 professor position, you are really working hard to attain
9 tenure, then work hard to keep going until you get full
10 professor.

11 Q. And did you receive those promotions?

12 A. Yes, I did.

13 Q. Do you recall what year you received tenure?

14 A. No, I don't recall the year, but it was basically -- I
15 think I was 30 when I got it.

16 Q. And then have you now been promoted to full professor?

17 A. Yes.

18 Q. Do you recall when you received that promotion?

19 A. I don't know the exact year, but I -- again, I went through
20 that process also.

21 Q. At some point did you assume an administrative role at the
22 university?

23 A. Yes, I became the senior associate dean for undergraduate
24 education on July 1 of 2014, yes, and I had had a role in the
25 office before then as well.

1 Q. I want to ask you about the reporting structure in your
2 current position. Who do you report to?

3 A. I -- so I report -- I am in the College of Arts and
4 Sciences, and I report to Dean Terry Rhodes.

5 Q. You mentioned the College of Arts and Sciences. What is
6 the College of Arts and Sciences?

7 A. The College of Arts and Sciences at UNC-Chapel Hill is the
8 space where young undergraduates come -- it's the college where
9 they come. It is the largest college. It's -- it is the
10 college that houses, you know, about 45 majors for
11 undergraduates. It has actually 45 departments. It's many
12 more majors because of the degrees that are awarded. But it is
13 a unit -- the largest unit there.

14 There's a College of Arts and Sciences and some
15 professional schools as well at UNC-Chapel Hill. One of the
16 neat aspects of Chapel Hill is that the medical school is on
17 the campus, so we have the college and then a very -- you know,
18 our very strong health affairs side.

19 Q. In your position, do you have anyone who reports to you?

20 A. I do.

21 Q. Who are the people who report to you?

22 A. So I have -- I have about 12 people who report to me and 10
23 of them are leaders of units in my area, in the Office of
24 Undergraduate Education.

25 Q. What are the types of units and departments that you

1 | oversee?

2 | A. So there are three areas. One area is about really the
3 | curriculum. So there are offices of -- every kind of change
4 | that goes on with a course or a program or a degree at the
5 | undergraduate level goes through this office -- it's the Office
6 | of Undergraduate Curricula -- also the first-year seminar
7 | program. We have an interdisciplinary teaching program,
8 | undergraduate research. We have innovative instruction, and we
9 | also have programs for -- for allowing scholars to do work in
10 | pedagogy. That's the curricular side.

11 | There's also student support; and so we have academic
12 | advising, which is a large division, and the Center for Student
13 | Success, which includes the learning center and the writing
14 | center.

15 | We also have the third area -- sorry -- which is Honors
16 | Carolina, our honors program; and we have a joint program with
17 | Duke, which is called the Robertson Scholars Program. So they
18 | are also part of the Office of Undergraduate Education.

19 | Q. Thank you.

20 | I want to now ask you some questions about your role as an
21 | academic. Do you continue to work as a professor as you're in
22 | the administrative role?

23 | A. I do.

24 | Q. Can you talk about your research focus within your field?

25 | A. Yes. I am a quantitative psychologist. So my area is -- I

1 study the development and application of quantitative methods,
2 and my area specifically is in measurement and in research
3 design, and I specialize in the study of -- multisite studies,
4 so studies that are across multiple sites.

5 Q. I want to ask you whether you've received any grants.

6 A. Yeah, I have received grants all the way through, really,
7 my time at Carolina. Some recent grants include -- there's the
8 Educational Diversity Project, which is a project of law
9 schools, where we looked at -- we looked at incoming law
10 students at multiple law schools.

11 I had projects in the Chancellor's Science Scholars, which
12 is -- as a program evaluator. This is a participation program
13 for undergraduates who are pursuing STEM degrees and
14 encouraging students to attend graduate school in the sciences.
15 It's modeled after the -- President Herboski's Myerhoff program
16 at the University of Maryland, Baltimore County.

17 I received a large grant from the U.S. Department of
18 Education on -- it's called the Finish Line Project. It was
19 one of the first in the world initiatives for the Department of
20 Education. It focused on first-generation college students,
21 and the curricular changes we can make and the training we can
22 do with faculty, as well as the kinds of academic coaching we
23 can do with students, and training we can do with also
24 professionals, as well as other questions around STEM
25 participation and transfer students.

1 Q. So you mentioned a couple of grants. For the Educational
2 Diversity Project, what was the level of funding for that
3 grant, if you recall?

4 A. I think it was over 2 million.

5 Q. And what was -- what was the specific area of inquiry for
6 that grant?

7 A. So that was the Law School Admission Council that funded
8 it. It was -- the specific area was looking at the educational
9 benefits of diversity and what is present when students are
10 arriving to law school, and then we followed those students
11 through law school, through focus groups and then finally with
12 a follow-up later.

13 Q. And what was your role with respect to that project?

14 A. I was one of the PIs.

15 Q. What is PI?

16 A. One of the principal investigators.

17 Q. And then with respect to the Finish Line Project, what was
18 the level of support for that project?

19 A. That was a \$3 million grant, and I was the PI, the
20 principal investigator.

21 Q. And then what is your role with respect to the Chancellor's
22 Science Scholars program?

23 A. In that I'm the program evaluator. So that is my area --
24 one of my areas of specialty, so I was present when that
25 program first started several years ago. And so I -- I

1 evaluate the students and the program, which means that I
2 examine and collect data about students as they walk onto
3 campus as early as their selection weekend as high school
4 students through graduation.

5 Q. Have you received any grants from the National Science
6 Foundation?

7 A. Yes, I have. Most recently I work with two professors in
8 the School of Education on an area called learning analytics,
9 which essentially is really studying what happens, how do
10 students interact with materials in a classroom, especially in
11 the sciences, to promote learning.

12 So we're looking at how students -- how do they receive the
13 kinds of resources that are provided by professors, and how do
14 they use those resources, how do they practice with problems
15 and use practice -- and use materials that are offered to them,
16 and how does that predict the ultimate outcome of their
17 performance in those courses.

18 It's a neat area, and it brings together different kinds of
19 data sets and areas, really, in understanding what happens, the
20 actual learning in the course.

21 Q. I want to turn now and ask you a few questions about your
22 teaching.

23 Have you taught courses at the university over the years?

24 A. Yes, I have taught from, really, the beginning. I actually
25 taught while I was at New York University. They gave me sole

1 responsibility for a course. It was personality -- research
2 methods and personality, and then from the moment I came to
3 UNC, I taught.

4 Q. Have you taught undergraduates specifically?

5 A. Yes, undergraduates and graduate students.

6 Q. How many years of teaching experience do you have overall?

7 A. It's about 30.

8 Q. Have you received any teaching awards?

9 A. Yes, I have.

10 Q. Can you describe those awards?

11 A. I've received a lot of praise for my work and that is over
12 many years, but I've received awards at every level, really,
13 for UNC. So there's the Department of Psychology and
14 Neuroscience. There's the university; and then also in my
15 discipline, I have received the top award for teaching and
16 mentoring in my field.

17 Q. Thank you.

18 I would like to ask you a couple of questions about your
19 service activities at the university.

20 Have you had the opportunity to serve on committees?

21 A. I have.

22 Q. Can you talk about some of the more significant committees
23 that you have served on at the university?

24 A. Sure. I -- so early on I became involved in faculty
25 governance and being elected to the Faculty Council really

1 before I was even tenured, which some people argued that's not
2 a good thing, but it is -- that happened. But I've chaired
3 over the years the Committee on the Status of Women, the
4 Hearings Committee, the -- I've been on the Executive Committee
5 for Faculty Council multiple times. I've chaired the
6 Chancellor's Advisory Committee, and I've also chaired the
7 Appointments, Promotions and Tenure Committee for the
8 university, which is the committee that reviews all of the
9 promotion decisions -- personnel decisions from appointments to
10 tenure through associate to full for the university, not just
11 the college but really the whole university.

12 Q. I want to ask you now specifically about your involvement
13 with committees that may do work that relate to this case.
14 Have you had opportunity to be involved in some of those
15 committees?

16 A. Yes.

17 Q. What is your involvement with the Advisory Committee on
18 Undergraduate Admissions?

19 A. So I chaired the committee on undergraduate admissions --
20 Advisory Committee for Undergraduate Admissions. Because I
21 have the role of senior associate dean for undergraduate
22 education, I chair that committee.

23 Q. How long have you been the chair?

24 A. Since I started on July 1st, 2014.

25 Q. And then have you been involved with the Committee on

1 Race-Neutral Strategies?

2 A. Yes.

3 Q. What is your involvement with that committee?

4 A. I chair that committee.

5 Q. And how long have you chaired that committee?

6 A. Since its inception.

7 Q. And then have you also been involved with the Educational
8 Benefits of Diversity and Inclusion Working Group?

9 A. Yes.

10 Q. What has your been -- involvement been with that group?

11 A. I am a committee member, and I also am a committee member
12 on a subgroup that's on assessment.

13 Q. Now I'd like to ask you about your activity in your field
14 nationally. Have you had an opportunity to serve in some
15 national roles for your field?

16 A. Yes, I have.

17 Q. Can you talk about that?

18 A. Yes. So some examples are I have served on the advisory
19 panel for the Social Security Administration to study the
20 occupational system that's used in the determination for
21 disability.

22 I have served on the advisory board for the Graduate Record
23 Examination, which is the GRE, at the Educational Testing
24 Service. That advisory -- that advisory panel is really made
25 up of mostly graduate deans around the country -- from

1 institutions around the country, as well as people like me who
2 are -- who specialize in measurement and psychometrics and
3 research.

4 In that role, I also chaired what is the research committee
5 for the board for many years. There is a very active research
6 agenda for the GRE studying the tests -- all aspects of the
7 test; and so I chaired the committee that reviewed all the
8 proposals, looked at all the interim reports, all the final
9 reports. And so that whole piece went through our committee.

10 Q. Have you been involved with the American Psychological
11 Association?

12 A. Yes.

13 Q. Can you talk about that?

14 A. So also that's something that I started when I was a
15 graduate student, being a member or an affiliate at that time,
16 and then growing into those -- into more and more involvement
17 over time.

18 But I did everything that I could do in my division, which
19 is the Division 5. It's the earliest -- one of the earliest
20 divisions of the American Psychological Association because of
21 its fundamental aspect of psychology, which is about statistics
22 and measurement.

23 I have been on the Council of Representatives, which is an
24 elected position. I have been on a -- there's a special
25 committee that exists for the APA which is called the Committee

1 on Psychological Tests and Assessment. So I've been on that
2 committee. I have also -- in my division, I have been the
3 president of my division.

4 Q. Have you also received any distinctions, such as
5 fellowships?

6 A. Yes, I am a Fellow of APA.

7 Q. What you do have to do to become a Fellow of APA?

8 A. So APA is -- so you have to provide information about your
9 scholarship; and so that is the criteria, there are unusual and
10 outstanding contributions to the field of psychology.

11 Q. Thank you.

12 Have you done any editing work?

13 A. Yes, I do editing. I am currently editing a second edition
14 of a three-volume set on -- it's called the *Handbook on*
15 *Research Methods in Psychology*. It's being published by the
16 American Psychological Association. I have edited other
17 volumes. There's a book on ethics in quantitative methodology
18 that I've edited, and I've edited journals too.

19 Q. I'd like to turn now and ask you some questions about the
20 university and its mission.

21 From the various perspectives that you've had at the
22 university, including as senior associate dean, have you
23 personally observed a commitment to diversity at the
24 university?

25 A. Yes.

1 Q. Can you talk about that?

2 A. Sure. This is a commitment that is the most fundamental
3 commitment that we have at our university. It's a major part
4 of our university mission in that we are -- we are the center
5 for scholarship and creativity, and we are -- our mission is to
6 serve a diverse set of students who are undergraduate students,
7 professional students, and graduate students so that we prepare
8 them for their futures in -- in society, as leaders in society,
9 and as people who are entering a workforce where there are jobs
10 that are not even conceived of at this point.

11 Q. In your capacity as working with the Educational Benefits
12 of Diversity and Inclusion Working Group, are you familiar with
13 the report that the provost prepared?

14 A. Yes.

15 Q. And we've taken a look at that report already in this case.
16 Are you familiar with the educational benefits that are
17 articulated in that report?

18 A. Yes, I am.

19 Q. And are you in agreement that those are the educational
20 benefits that the university seeks to accomplish?

21 A. Yes, I am, and I think it serves as an excellent frame for
22 us as we -- as we think about the educational benefits that
23 flow from diverse student bodies.

24 Q. As someone who has had the opportunity to be a professor at
25 the university for many years, have you had the opportunity to

1 personally observe the educational benefits of diversity?

2 A. Yes. And that's the beauty of teaching, and I think I -- I
3 observe that regularly, and it's -- I just -- as an example, I
4 would just say that when you have students coming together
5 around a meaningfully conceived intellectual pursuit like a
6 project or maybe a semester-long project and students are
7 together working around this project, hammering it out and
8 working to -- and contributing in all the ways they contribute
9 and carrying that through, there is nothing like seeing that
10 process emerge; and that is what is really the most wonderful
11 aspect about being in a role like a professor role.

12 Q. Has your own research contributed to your belief in the
13 importance of these benefits?

14 A. Yes.

15 Q. Can you talk about that?

16 A. Yes. I -- I do work -- I'm regularly talking to students,
17 so I -- in the educational benefits of diversity and -- the
18 educational diversity project, I saw evidence of that in -- in
19 findings that we had. But in other work, for example, the work
20 on the Finish Line Project, where we regularly talk to
21 students, first-generation college students, students coming
22 into college during classes, navigating different spaces on
23 campus as they exit the university, these are all the kinds of
24 conversations that show -- provide good evidence around these
25 educational benefits.

1 Q. Based on your experience, is racial and ethnic diversity
2 specifically important to achieve the university's goals?

3 A. Yes.

4 Q. I'm going to turn now and ask you about some of the ways
5 that the university has attempted to assess the educational
6 benefits of diversity.

7 Prior to the formation of the Educational Benefits of
8 Diversity Working Group, had the university engaged in efforts
9 to assess these benefits?

10 A. Absolutely, yes. Would you like --

11 Q. Can you describe some of the ways that the university
12 approached that?

13 A. Sure. So I would -- there are three kind of components to
14 this -- the way that we assess educational benefits of
15 diversity. There's -- sort of one component is around -- it's
16 longitudinal. It assesses students as they're arriving and
17 early on and in sophomore year and senior year and as alumni
18 and even if they stepped away and came back. These are
19 assessments that our university developed, and they also tie
20 to -- we are part of a system, so often they tie to our system
21 assessments, and also they tie to national assessments.

22 We also have a component that is focused specifically on
23 the academic experience, and so that goes into -- so we have a
24 lot of departments in the college and in the university that
25 undergraduates take courses -- where they take courses; and

1 each of those departments, each of the majors -- a BS, a BA or
2 whatever the major is -- is required to provide information
3 about how students are learning in those areas.

4 In addition, every student who comes to UNC-Chapel Hill,
5 every undergraduate, takes courses in our general education
6 curriculum, which I'm very proud of, and it is -- and that's
7 about a third of the courses that students take when they're
8 achieving -- when they're going through their careers as
9 undergraduates. And they -- and every aspect of that is being
10 evaluated for -- looking at how it's working, is it working
11 fairly across different groups and across the university.

12 And we also have in -- each department has tools that they
13 can use, and the faculty have tools that we've created so they
14 can look to see how is our department doing. This is often in
15 concert with the Office of Institutional -- Institutional
16 Research and Assessment, how is a department doing. I call
17 them -- one of the first things I did in my role -- the state
18 of the department.

19 So you can see at any point how are our students. Are they
20 engaging in high-impact practices that we care about, like
21 study abroad, internships, undergraduate research? Are they
22 taking the first-year seminars? What are they doing and can
23 we -- can we see how they're -- what courses are they taking
24 before they drop a major? All of these bits of information are
25 important for our director of undergraduate studies to report

1 in to our departments, and we have multiple forms of looking at
2 those -- that information.

3 And then finally I just want to say one piece, which is a
4 very key piece. It's we do research also regularly on -- on
5 the classroom and how we can train our faculty. In my area, we
6 have the -- really the nation's top experts on inclusive
7 teaching, and we have -- we have projects -- there are research
8 projects and there are scholarships around ensuring that the
9 classroom is a space where everyone is going to thrive and the
10 learning is maximized.

11 So an example is we have a high -- there's a person, Carl
12 Wieman, who is the Nobel Prize winner physicist at Stanford,
13 who talks about what you need to have in a classroom to
14 encourage learning, and we have implemented that in a full way
15 at UNC. It's starting in the sciences and moving outside with
16 high structure, active learning, where we take advantage of the
17 fact that people are together -- not in COVID times
18 necessarily, but there's a COVID version of this. But people
19 are together and that the learning is existing at the -- the
20 students have certain kinds of activities. There's
21 accountability. There's a certain level of work. It's a
22 design -- it's a backward design of what you want everyone to
23 be learning, and you build the -- you build the course and the
24 structure from that.

25 So we have trained faculty. Over time we have trained many

1 faculty too, and we have summer institutes and other ways to
2 do -- and faculty learning communities where they have
3 redesigned their courses so they can implement these
4 high-structure, active learning kinds of procedures and
5 approaches. We've had multiple grants and ways to do this, and
6 we continually do this.

7 And our faculty -- it increases learning in -- for our
8 students, and that's why we do it. It's a structural way that
9 we are changing how students learn. It's an important aspect
10 of our assessment.

11 Q. Okay. I want to follow up on some of the things that
12 you've talked about.

13 You talked about these longitudinal assessments. Are you
14 referring to surveys?

15 A. Well, we have surveys, and then sometimes we do cohort
16 kinds of studies which we'll follow students through. There
17 are different kinds of -- you know, pros and cons for each of
18 these approaches, but we are -- we have both.

19 Q. Okay. With respect to some of the surveys, does the Office
20 of Institutional Research and Assessment play a role in
21 administering this?

22 A. Yes, they do. They're very -- certain surveys. So they --
23 they are very helpful in, I would say, that first component
24 where we are talking about our national surveys and our
25 regular -- surveys that involve, for example, our system office

1 as well.

2 But they are -- they are our partner all the way through
3 all of this, and they're even our partner -- even. They are
4 our partner also for our assessment of gen ed and our new
5 general education curriculum, which has been designed to really
6 express the intent of faculty in learning and what we think is
7 best for our students overall as they move through Carolina and
8 graduate. They are also helping in that and partners in
9 assessing that when it comes and is fully implemented in 20 --
10 in about two years.

11 Q. And I don't know that we've actually heard of that office
12 in this trial yet, so could you just briefly describe at a high
13 level what the Office of Institutional Research and Assessment
14 does?

15 A. Oh, yes. So every university has an office like this. It
16 is an office that -- that reports about the functioning of the
17 universities and often provides tools to examine so that you
18 can see -- be transparent about how the university is doing on
19 certain metrics and also reports into our system office. We
20 have -- we're part of a system, so also reports key information
21 to our system regularly. And then when you have certain
22 surveys, sometimes you'll want it to be from a different office
23 so that it -- and that's the office that Institutional Research
24 provides also.

25 So there are multiple reasons for an office like this. The

1 director is a wonderful partner, and she has a wonderful staff
2 who work with all of us on these topics.

3 Q. I want to ask, has the university done any climate surveys?

4 A. Yes, it has.

5 Q. Do you recall what the most recent climate survey was?

6 A. I -- so the topic of climate comes up at multiple levels.
7 So it's in surveys that are around undergraduate education and
8 also in surveys around faculty and staff. So let me clarify.

9 Q. Let me be a little more specific.

10 Could you talk about a climate survey addressing diversity
11 issues in 2016?

12 A. Yes. That one was administered by the -- UCLA, the Higher
13 Education Research Institute, and so -- and that was -- that
14 was outsourced, really, to that group because they're experts
15 in that area.

16 Q. And the information and assessments that we've been talking
17 about, do those help the university understand how well it's
18 achieving the educational benefits of diversity?

19 A. Yes. And it's really -- by having multiple methods, we're
20 able to see this across the dimension of time and also the
21 dimension of -- we can see this in -- in surveys asking
22 questions of students directly or -- and also in their
23 behaviors in the academic setting.

24 I focus really on the academic setting, but really college
25 is not just the academic setting. It is everything around in

1 the dining halls and the residence halls and the fields, all
2 around campus where people are just -- where they are, where
3 they're talking, where they're being together.

4 Q. In addition to more formal surveys, does the university
5 also seek information from its students informally?

6 A. Yes, we regularly have -- we have various kinds of ways for
7 students to express themselves for -- and come and speak.
8 We -- I do a lot of work with students and expressing through
9 focus groups and other areas. But there are programs -- we
10 have an Office of Diversity and Inclusion, for example, where
11 there are programs that are being put on regularly in that area
12 for students to come and just talk. Our students are part of
13 Faculty Council even. They have a role there. They have --
14 they are -- they have lots of ways of expressing themselves,
15 and they do, fortunately.

16 Q. I want to ask you about course evaluations. Does the
17 university do anything through its course evaluations to
18 understand the educational benefits of diversity?

19 A. Yes. So this is something that we -- I would just say
20 that's our understanding. I think I would consider the
21 course -- we call them student evaluations of teaching, and
22 they are about each course. You can also roll them up and
23 understand overall how we're doing -- how a department is doing
24 or how the university is doing overall.

25 But we do quite a lot. Because my area is in psychometrics

1 and measurement, I -- we do quite a lot with the student
2 evaluations of teaching. We have thousands -- about 12,000
3 student evaluations of teaching that are -- that come in every
4 semester over all of the different departments and courses and
5 professors. So we do analyses that examine how those items are
6 doing -- the course evaluations items are doing across
7 different kinds of groupings; and we look at student
8 characteristics, faculty characteristics, and course
9 characteristics to see what are the -- how those items function
10 as a function of the student characteristics, faculty, and
11 course.

12 It's -- it's intensive, but we -- it's our way of stepping
13 in and understanding as students. You know, there are a lot of
14 issues with student evaluations of teaching, and there have
15 been various bias that has been introduced in the literature.
16 And so we want to stay on top of that, and we want to use them
17 for the kind of information that they are, a student expression
18 about a course at a given time.

19 We also are doing neat analyses, I'll just say, with the
20 comments that students write. In the past, people have just
21 sort of read them and thought, oh, you know, this is generally
22 what happens. There's some negative ones. There's some
23 positive ones. It hasn't been formally analyzed. This is
24 nationally.

25 So what we do is we look at natural language processing of

1 these comments to understand how -- what is coming out of the
2 comments, how we can be expressing them to our faculty in a
3 more transparent way and summarize them in a different way.
4 It's a new technology with the student evaluations of teaching
5 to not ignore the comments because I would just like to say
6 who -- the people who provide comments, it matters -- providing
7 a comment is an action, and not everyone provides a comment in
8 not every setting, and so we're alert to that.

9 Q. I want to ask you now about something that you said
10 earlier. You mentioned that the university is attempting to
11 use the information it gets in the assessment to improve
12 teaching.

13 Can you give me a specific example of that?

14 A. Yes. It's -- it's all over. It's all over. We -- we use
15 the -- we use information about learning in a classroom to
16 improve ourselves each round. So one of the beautiful aspects
17 of being in a system where every round, every new semester is a
18 new semester is that people are adjusting.

19 I would just say COVID is one of the -- a fine example of
20 just where we have -- we had people who were already designing
21 amazing classes in their -- in the sciences, for example, and
22 they had to switch immediately. Their ability to move quickly
23 is -- allowed -- because of the structure that they provided,
24 because of their ability of what they did once students were
25 around, many of them were able to switch over more seamlessly

1 than others because of that kind of change.

2 But in general, we use our information regularly because
3 we're feeding it back to the faculty; and we have learning --
4 faculty learning communities, which are faculty coming together
5 with a facilitator to talk about how to design your courses;
6 and we have -- we have institutes; and we have trainings.

7 And as I mentioned before, we have some of the top people
8 in the country on inclusive teaching in a classroom. Who are
9 you not reaching and how to bring people in, that is a very
10 important piece, and that's why it's a very important aspect of
11 what we do.

12 Q. I want to ask you about whether there are intentional
13 efforts by the college to achieve the educational benefits of
14 diversity in terms of the student interactions.

15 Does the college do anything to promote student
16 interactions?

17 A. We -- we have programming -- regular programming. We
18 have -- so our mission of the college is: "Think.
19 Communicate. Collaborate. Create. ...for meaningful lives."
20 And for that, it's -- each piece of that was -- we were very
21 careful to think about that.

22 It's about critical thinking and what it means to be -- to
23 use -- to make leaps and to be able to create and think; our
24 communication and -- across all forums, so being writing and
25 oral and visual and digital kinds of ways of communicating.

1 Collaborating, we value collaboration so much that we put
2 it as one of our reoccurring capacities in our new general
3 education curriculum. You cannot have a course in our new
4 general education curriculum coded this way unless you have
5 collaboration as part of what goes on in that course. So it's
6 implemented in that way.

7 And then create. We are valuing the creation -- we think
8 that putting people together to think about a program creates
9 and allows people to innovate and problem-solve, and that is
10 where we at its creation -- we think they invent, they create
11 through performances, through exhibits, all the different ways.
12 So that's the creation.

13 And then for meaningful lives, we -- we really think -- you
14 know, this is about -- about a student's own trajectory through
15 life and the different kinds of careers a person might have. I
16 tended to have one, but many people have multiple careers.
17 They have multiple spaces that they're operating in for work
18 and -- and it affects everyone and it affects our community.
19 So we use for meaningful lives to think about the broad sense.

20 And so we implement this -- these are -- we are thinking
21 about this all the time. The fact that our faculty have
22 developed a new general education curriculum that -- that
23 ensures that every one of our students has a first-year seminar
24 type of experience, a faculty member in a small class in their
25 first year, we value that experience. We saw that not everyone

1 was achieving that experience for whatever reason. Whatever
2 hypotheses we might have about that, we changed that. These
3 are all -- we saw that students didn't have the experience of
4 right away seeing that you have to bring multiple people to the
5 table to address a major difficult topic. We have done that
6 for our new general education curriculum with a new type of
7 interdisciplinary course.

8 These are all kinds of changes and aspects that we
9 implement through our curriculum. That's our faculty's
10 intention, and that creation with community and stakeholders
11 involved is our intention. That is how that is really part of
12 the fabric of what all incoming students will experience for
13 generations until the next new general education curriculum is
14 developed.

15 Q. I want to turn now and ask you some questions about an
16 exhibit related to the Educational Benefits of Diversity
17 Working Group. You should have an exhibit binder on the floor
18 next to you if you want to look at any of the exhibits. We're
19 also going to be putting them up on the screen, so whichever is
20 easier for you is fine.

21 A. Okay.

22 **MS. BRENNAN:** Aaron, if you could please pull up DX5.

23 Q. (By Ms. Brennan) The DX exhibits should be at the front of
24 the binder, and let me know when you have that in front of you,
25 please.

1 A. I have it in front of me.

2 Q. Do you recognize this document?

3 A. Yes, I do.

4 Q. If we can turn to the second page of the document, what is
5 this document?

6 A. This is a -- I'm sorry. This is a report that was created
7 for -- to describe the activities of the Educational Benefits
8 of Diversity and Inclusion Working Group.

9 Q. And if you look at what's in front of you on the screen, it
10 talks -- it says "Overview." Could you please read that into
11 the record?

12 A. Yes. "Overview. In December 2017, Provost Robert Blouin
13 convened the Educational Benefits of Diversity and Inclusion
14 Working Group (the EBD Working Group). The group's charge is
15 to coordinate and enhance the assessment of the University's
16 ongoing efforts to realize the educational benefits of the
17 diversity and inclusion for its undergraduate students.

18 "This report summarizes the EBD Working Group's progress
19 during the 2017-2018 academic year and forecasts some of its
20 future activities."

21 Q. Thank you. And if you look back at the group's charge, is
22 that consistent with your understanding of what the group's
23 charge is in the second sentence?

24 A. Yes, it is.

25 Q. Okay. And I want to just move down the page to the next

1 paragraph where it talks about the five different educational
2 benefits of diversity.

3 Does that come from the provost's earlier report?

4 A. Yes, but a different provost. This was the Provost James
5 Dean, who is now the president of the University of
6 New Hampshire.

7 Q. And do these five benefits provide a framework for this new
8 Educational Benefits of Diversity and Inclusion Work Group.

9 A. Yes.

10 Q. Could you please read the final paragraph on the page that
11 starts "The EBD Working Group..."?

12 A. Yes. "The EBD Working Group oversees and coordinates
13 assessment of the University's many efforts to realize these
14 educational benefits of diversity for its students. This work
15 entails, among other things, the broad collection of data about
16 the University's progress toward achieving these benefits. The
17 EBD Working Group strives to ensure the use of methodologically
18 sound assessment tools to ensure that the University's efforts
19 in this area are deliberate, continuous, ongoing, and aligned
20 with the University's mission and strategy. We examine data
21 regarding the educational benefits of diversity and inclusion;
22 we use it to measure and assess the University's efforts to
23 achieve the educational benefits of diversity; and we apply the
24 resulting insights to improve continuously both the assessment
25 and the provision of the educational benefits of diversity and

1 inclusion."

2 Q. Is that paragraph consistent with how it has worked in
3 practice?

4 A. Yes, it is consistent.

5 Q. I want to have you turn to the next page, which says
6 "Working Group Members."

7 Does this list the members of the group?

8 A. Yes, it does.

9 Q. And how are you selected or chosen to be on this committee?

10 A. I believe I was selected because I -- of my role and
11 because of my expertise overall in assessment.

12 Q. Are there others on the committee that bring different
13 types of expertise?

14 A. Yes. So Dr. Alexander was the chief diversity officer of
15 the Office of Diversity and Inclusion. She is a professor in
16 nursing and regularly gave presentations to Faculty Council and
17 the community around diversity and inclusion.

18 I would -- Stephen Farmer, who is the vice provost of
19 enrollment and undergraduate admissions, and this is also an
20 important area for -- obviously, for understanding the
21 educational benefits of diversity and inclusion.

22 Felicia Washington, the vice chancellor for our workforce
23 unit overall. This is about really the end -- the -- being
24 admitted to undergraduate is really that path all the way
25 through life, and that is what we're -- she represents in this

1 space.

2 And also Lynn Williford -- Dr. Williford, I mentioned her
3 just in passing just before, the assistant provost for the
4 Office of Institutional Research and Assessment. So she is the
5 person who coordinates most of the assessments for the
6 institution overall, and that's what her office is charged to
7 do.

8 Q. And then if you could look at the next section where it
9 states "Initial Progress," this talks about the group meeting
10 six times between December 2017 and the end of the academic
11 year in May 2018.

12 Is that consistent with your recollection?

13 A. Yes, it is.

14 Q. Okay. And then it talks about the fact that the report
15 attaches the minutes that reflects the discussions and shows
16 materials that the group reviewed?

17 A. That's correct.

18 Q. What type of materials did the group review?

19 A. There's a lot. There's -- so we're looking at different
20 assessments that are coming in from different spaces. There
21 was an inventory that was -- that we created to -- to make sure
22 that we are aware of the assessments that were in different
23 spaces around our campus in the different -- for example, in
24 the professional schools -- in certain spaces in the
25 professional schools and all around, actually. So these are

1 the kinds of -- there really -- it's materials that would be
2 relevant to this working group.

3 Q. Okay. If we can look at the next sentence. It says: "A
4 Data Inventory and Assessment Plan subcommittee met informally
5 between the full EBD Working Group meetings...."

6 Is that the group that you were referring to that you were
7 a part of?

8 A. Yeah. So the main working group was chaired by the
9 provost -- by Provost Blouin. That's the main one. And then
10 sort of on the off weeks we would meet for -- to discuss
11 assessment plans and also just plans for what we would bring to
12 the larger group.

13 Q. And I want to just for a second set this exhibit aside.
14 We're going to come back to it.

15 **MS BRENNAN:** But could you please put up DX61?

16 Q. (By Ms. Brennan) I'd like to have you look at this
17 document. Do you recognize this?

18 A. Yes, this is the inventory of assessments for the
19 Educational Benefits of Diversity and Inclusion.

20 Q. And if we could just look at a couple pages of this
21 document. It looks like this is a table of contents --

22 A. Yes.

23 Q. -- and if we could scroll through that. It's collecting
24 information from where?

25 A. From really all the -- there are departments that are

1 listed. There are curricula that are listed. I see
2 undergraduate education is here -- all of our units in
3 undergraduate education; the professional schools, which
4 include the health affairs, medicine, and allied health; and
5 areas where they have -- but also there's education and Hussman
6 School of Journalism, and we have -- and, you know, public
7 health is included in the health affairs piece, and information
8 and library science, for example. There's student affairs.

9 And that's the piece that I haven't talked a lot about, but
10 there is a robust assessment in student affairs as well:
11 Housing, dining, all the different -- new family programs.

12 Q. Does some of that assessment relate to
13 outside-the-classroom activities and experiences?

14 A. Yes, it does.

15 Q. Okay. I want to just look at an example page from.

16 **MS BRENNAN:** If you could turn to page 5 of the
17 exhibit and maybe rotate, if that's possible.

18 Q. (By Ms. Brennan) Is this the type of information in terms
19 of assessments that the group was collecting?

20 A. Yes.

21 Q. So it talks about -- what are some of the categories we're
22 looking at?

23 A. So it's, you know, which department or curriculum or unit,
24 and then what type of assessment overall, what kinds of
25 methods. So what kind -- are there multiple -- is it just

1 surveys? Is it just self-report, or is it also -- are there
2 some other kinds of data that are being collected? Are there
3 archival information or other information? And there's a
4 variety that are listed here. Who are the participants, so who
5 are the -- about whom are these assessments -- who are the
6 participants? What is the actual assessment designed to
7 measure? How often -- what is the cycle of the assessment? So
8 if we only do it once in a blue moon, we need to know that, or
9 is it a regular kind of assessment. And then what kinds of
10 findings do we see?

11 Q. Thank you.

12 And now we're going to put that one aside and go back to
13 the one that we were looking at earlier, which is DX5, and go
14 back to page 3 of that, please.

15 And if you look at the bottom part of that page, you'll see
16 a section that says "Assessment Principles and Framework." Do
17 you see that?

18 A. Yes.

19 Q. Could you please read this into the record?

20 A. Okay. "Assessment Principles and Framework. We adopted
21 assessment principles and a framework to guide our work. To
22 measure the University's efforts, we concluded that it made
23 sense to engage in assessment at each stage of an undergraduate
24 student's engagement with the University. This framework
25 begins before a student matriculates to UNC (perhaps as early

1 as high school and middle school), when prospective applicants
2 discover the University and later seek to enroll. It continues
3 with the full range of students' experience on campus, in the
4 classroom and beyond. It concludes with former students as
5 they enter the broader world beyond Chapel Hill as alumni."

6 Q. Why did the group choose to look at its assessment with
7 this framework?

8 A. Really, we're talking about the full trajectory, all the
9 way through -- from the earliest that we could really reliably
10 tap into our students all the way through as alum to -- through
11 graduation and -- and as alumni. And that piece is also very
12 important as well because our long-term goals are really
13 affecting lives in the long term and in the long run.

14 Q. Okay. I want to now turn to page 4 of the document, and
15 the top paragraph here talks about "...principles that would
16 guide our work."

17 Can you talk about what those principles are?

18 A. Yes. We also -- what they are overall?

19 Q. Yes.

20 A. So these are principles that guide our work in measurement,
21 and we think about them -- fortunately, we're guided because we
22 have standards -- we have our -- our national professional
23 organizations -- AERA, which is American Education Research
24 Association; American Psychological Association, APA; and NCME,
25 which is National Council of Measurement and Education -- have

1 created -- and this is a multiple -- we've had multiple
2 editions, but there is a set of standards that we use in
3 educational and psychological testing and assessment.

4 And we are using these standards in the work that we do,
5 and that means that we use certain types of measures. We are
6 checking the -- we are checking aspects of those measures
7 regularly, and they're -- you know, we have a -- a guideline
8 that allows us to frame how we think about our measurement and
9 assessment.

10 Q. Does that structure improve the quality and rigor of the
11 work?

12 A. Yes, it does.

13 Q. Okay. I want to now just show you the section right below
14 that where it talks about collection of existing data, and we
15 already talked about that somewhat. But at the bottom of the
16 page, if you can look at the bottom, yep, starting with "The
17 Working Group..." it lists several different instruments.

18 Without going through each of them, what generally are
19 these?

20 A. Okay. These are instruments that are -- like the time when
21 I was talking about the assessments, these are the assessments
22 that are -- that are university-wide kinds of assessments that
23 assess individuals sort of as they're coming into the
24 university, as they're moving through the university; and
25 they're tied to the items -- and what students are asked are

1 tied to either areas that we're interested in as a university,
2 also our university system is also interested in. We will use
3 these items as well. And then also we tie into national
4 surveys so that we can benchmark and we can be part of a
5 collaborative with other universities that use this similar
6 instrument. So that helps us so that we can do our
7 benchmarking later and it's useful.

8 So examples of this is -- the Cooperative Institutional
9 Research Program is one of the kinds of benchmark ones. More
10 of the SERU, which is Student Experience in the Research
11 University -- those are examples. It, again, taps people as
12 soon as they come in and throughout and then as they're
13 leaving -- as they're applying for their degree, we have --
14 there's an exit survey at that point as well, and there's even
15 follow-up there.

16 Q. I want to take to you the next page of the document on
17 page 5 where it talks about student perspectives. Here it
18 talks about the initial consideration of data yielding strikes
19 and striking insights, and I want to ask you about some of
20 those.

21 Can you read into the record starting with the second
22 sentence of that paragraph through the end of the paragraph?

23 A. Yes. Starting with "Students..."?

24 Q. Yep.

25 A. "Students newly admitted to UNC-Chapel Hill have expressed

1 | overwhelmingly their interest: (1) to engage with a broad
2 | range of ideas, perspectives, and visions that differ from
3 | their own; (2) to" gain "better at leading, serving, and
4 | working with people with different backgrounds; and (3) to
5 | deeper their appreciation, respect, and empathy for other
6 | people. Our students want" to work -- "to study alongside
7 | students who differ from them, because they know that doing so
8 | will help them get ready for a complex world, and ready for the
9 | lives that they want to lead."

10 | Q. Is that an initial conclusion that this group reached based
11 | on the data it had reviewed?

12 | A. Yes.

13 | Q. And then I want to look at the one in the second paragraph.
14 | If you can read that, please, "Data from...."

15 | A. "Data from recent Senior Exit Surveys suggest that Carolina
16 | is meeting those student expectations. Our graduating seniors
17 | reported that they have experienced the educational benefits of
18 | diversity throughout their time at Carolina, both within the
19 | classroom and in extracurricular activities."

20 | Q. Is that also a conclusion that the group reached based on
21 | data that it reviewed as part of its initial work?

22 | A. Yes.

23 | Q. And then I want to look at the next paragraph, please. If
24 | you could read that.

25 | A. "Some data from the 2016 HERI Climate Survey...suggested

1 that the extent to which students reported they had had
2 benefited educationally from UNC's diversity varied depending
3 on the number of years in school. The percentage of students
4 who reported that they had been challenged to think differently
5 about issues due to interactions with people whose
6 race/ethnicity was different from their own was 6 to 10
7 percentage points higher for seniors compared to first-year
8 students. The percentage of students who reported that
9 exposure to diverse people and ideas at UNC improved their
10 ability to understand people" -- sorry -- "whose race/ethnicity
11 was different from their own followed the same pattern. While
12 these data were gathered from a cross-sectional as opposed to a
13 longitudinal study, the trends are consistent with other
14 research demonstrating that the benefits of diversity and
15 inclusion increase with the quantity and quality of
16 interactions students have with different people and
17 perspectives."

18 Q. So what does this suggest in terms of whether students are
19 achieving educational benefits of diversity at the university?

20 A. It suggests that they are. And this was done
21 cross-sectionally, but it also shows in longitudinal research
22 as well.

23 Q. I want to ask you, setting the document aside for a moment,
24 has the group reviewed any information that would suggest to
25 the university that the university has achieved all of the

1 educational benefits of diversity that it wants to achieve; in
2 other words, that it's done working?

3 A. We are not done. We are not done. So there is a lot of
4 work to do in many different spaces where -- and I would just
5 say that overall I think in the academic space we have a lot of
6 work we are doing. So, yes, we have a lot of work we would
7 like to do.

8 Q. And I want to turn to the next page, which is page 6 of the
9 document, and look at the section that talks about future
10 progress. This -- if you could read the first sentence.

11 A. Yes. "Future Progress. The work of the EBD Working Group,
12 like the University's efforts to realize the educational
13 benefits of diversity and inclusion, is ongoing and deliberate.
14 The Group will" --

15 Q. Is that -- I'm sorry. You can finish.

16 A. "The Group will continue to meet during the summer and
17 ongoing throughout the academic year."

18 Q. Okay. Is that consistent with how it worked in practice?

19 A. Yes.

20 Q. And then it talks about review of existing assessment
21 methods. Could you describe what the university -- what this
22 committee has done there?

23 A. Okay. So --

24 Q. Or maybe I should rephrase my question to what the group
25 plans to do going forward.

1 A. With these assessments?

2 Q. Right, where it talks here about the review of existing
3 assessment methods.

4 A. Uh-huh. So we are working to make sure that we are
5 regularly apprised of all the assessments on our campus.
6 Because we have a decentralized campus -- we have the medical
7 school on the campus, but we have different kinds of units that
8 are -- professional schools that are out and each with their
9 own structures, it's important for us to have an understanding
10 of the assessments in all of those areas. So we are
11 continually making sure now that we have our -- we have
12 frameworks to help us with this to make sure that we are -- we
13 are apprised of all of the work that's being done in the
14 different spaces across campus.

15 Q. And the second paragraph refers to benchmarking. What is
16 the intent there? If you look down at "We will benchmark our
17 current methods...."

18 A. Yes. So it is very helpful to have -- be a part of a
19 collaborative where we're using common assessments. And
20 usually we -- we get information where we will have two
21 comparator schools, and we can see where we're falling relative
22 to these other schools and to identify areas of action based on
23 what we are seeing from them. And we think this is an
24 important aspect, to regularly look at how we fare compared to
25 other schools, especially our peers.

1 Q. I want to move down the page and look at the section called
2 "Assessment Plan." So here it talks about the development of
3 an assessment plan. Is that what you were describing with
4 respect to the different stages of experience?

5 A. Yes, it is.

6 Q. Okay. Could you read the second paragraph of this into the
7 record, please?

8 A. Yes. "The assessment plan will reflect our commitment to
9 use assessment of institutional data as part of" our -- "of
10 continuous efforts to improve as a University. It also will
11 reflect our recognition that regular, intentional assessment of
12 the University's efforts to realize the educational benefits of
13 diversity and inclusion is an institutional best practice. Our
14 object is to be a national leader in the field of providing,
15 constantly assessing, and improving the delivery of the
16 educational benefits of diversity."

17 Q. Was that your understanding, that this group intended to
18 try to be a national leader in this area?

19 A. Yes.

20 Q. Okay. I want to look -- just move away from that. We're
21 going to come back to it in a second. But if we can look at
22 page 82 of the document. This was attached. It's just further
23 back in the document.

24 What is this?

25 A. Okay. This is the assessment plan, just a -- it's a

1 mapping of the different phases that we have, really, for
2 students -- and I would like to just say that these are the
3 kinds of documents that can be updated if we have new
4 information about how we think about these phases -- but
5 outreach and recruitment programs, admissions, orientation, and
6 it goes on to later stages of students' careers. And then it
7 talks about mapping really for each of these areas and time
8 points for a student as they're coming into Carolina, what
9 kinds of assessments do we have and how -- how often do we --
10 you know, what is the cycle of assessment as well.

11 Q. And then I wanted to go back to page 7 of the document
12 where it talks about reporting and communication. Could you
13 read this into the record?

14 A. Yes. "Reporting and Communication. The EBD Working Group
15 will provide regular reports to the Chancellor and to the
16 Diversity and Inclusion Executive Council, and will welcome
17 response and suggestions, as well as the opportunity to meet
18 and discuss assessment findings and recommendations."

19 Q. And is that your understanding of how this group will
20 report out?

21 A. Yes.

22 Q. What is your assessment of this committee's work?

23 A. It's very important work because it -- it just -- it makes
24 sure that we're being just intentional around our -- around all
25 of the different efforts that exist around campus. As I

1 mentioned, because of our decentralized structure, it is very
2 difficult to ensure that we are knowing exactly what is going
3 on in all spaces, and that's what we're intending to do.

4 And the assessment plan overall gives us a way to make sure
5 that we are covering and mapping all of our -- all of the
6 stages of being a part of a Carolina student with what -- the
7 constructs that we're most interested in understanding, and
8 those are -- and unless we do that systematically, we can miss
9 areas, and we also might not have, you know, the best measure
10 that exists out there currently or something. So we are -- we
11 are making sure that we are assessing and not leaving areas
12 without having proper assessments.

13 Q. Have you observed a sincere commitment to this effort on
14 the part of the group?

15 A. Yes, it is sincere.

16 Q. Okay. I just want to quickly take a look at a few of the
17 items that we've been referencing that are attached to the
18 minutes for this group.

19 **MS BRENNAN:** Aaron, if you could please pull up
20 page 36 of the document.

21 Q. (By Ms. Brennan) Do you recognize this? This is an
22 addendum, and I guess let's go to the actual page, page 38 and
23 then 39.

24 A. Okay. Yes. So this is about the admitted student
25 questionnaire, and it's -- looks at the items that students who

1 are -- who have been admitted to Carolina are -- there's a
2 survey that's distributed; and they are expressing, among other
3 things, their responses and agreement or disagreement to
4 certain kinds of questions. And these are the items that
5 are -- that are asked. This is one set of the items that are
6 asked that relate to educational benefits of diversity and
7 inclusion.

8 Q. Okay. And then I want to look at page 42 of the document,
9 please, and this is -- it says it's a "HERI 2016 Survey
10 Presentation." Do you recall that?

11 A. Yes.

12 Q. And let's look at page 48. This says it's selected
13 highlights and has some information here.

14 What is this?

15 A. These are also -- they're similar -- so we try to ensure
16 that we -- we, within ourselves, have internal consistency
17 within the institution in a set of items and has the framework
18 we talked about in terms of educational benefits. So these are
19 similar types of items, but they're asked in a different kind
20 of assessment to different -- for students who are in a
21 different stage of their undergraduate career.

22 Q. And is this an example of the type of data that this
23 committee is reviewing?

24 A. Yes.

25 Q. Okay. And then if we could turn to page 63 of the

1 document.

2 A. I recognize it.

3 Q. I see your name on this.

4 A. Yes.

5 Q. What is this?

6 A. So this is the -- these are some of the earlier
7 psychometric analyses of the student evaluations of teaching
8 that I was talking about before. We get them every semester,
9 and we can aggregate them over many semesters. They represent
10 every student's end-of-semester evaluation and understanding of
11 what they experienced in that semester with a particular
12 professor in a particular course.

13 **MS BRENNAN:** And can we look at page 72 of that
14 document?

15 Q. (By Ms. Brennan) Does this reflect some of the potential
16 items for those reviews?

17 A. Yes, these are items that are included as a part of the
18 core set of student evaluations of teaching in the student
19 evaluations of teaching larger set of items.

20 And we look -- we look carefully to see if there is
21 differential item functioning, that is, those items function
22 differently based on different attributes of students, faculty,
23 and the courses. This is also -- also called measurement
24 invariance, seeing that the measures are invariant across the
25 different groups.

1 Q. To put a couple of examples out there in the record, could
2 you just read the first three examples of the potential
3 variables?

4 A. Sure. One of the items is: "The diversity of my
5 classmates enriched my learning in this course." Another one
6 is: "I increased my ability to work on a team with students
7 from different backgrounds and perspectives." Another one is:
8 "This course exposed me to points of view different from my
9 own."

10 Q. That's all I have on this document, so we can set that
11 aside.

12 **MS. BRENNAN:** Your Honor, I'm about to change topics.
13 If this is a good time for a morning break, we can do it now or
14 whatever Your Honor would prefer.

15 **THE COURT:** I think that's fine. I think we will take
16 a morning recess, and let us resume at five after 11:00.

17 You may step done.

18 **THE WITNESS:** Thank you.

19 (A morning recess was taken from 10:50 a.m. until
20 11:05 a.m.; all parties present.)

21 **THE COURT:** You may proceed.

22 **MS. BRENNAN:** Thank you, Your Honor.

23 And may Dr. Panter remove her mask?

24 **THE COURT:** Yes.

25 Q. (By Ms. Brennan) Dr. Panter, I want to turn to asking you

1 some questions about one of the committees that you chair, and
2 that's the Advisory Committee on Undergraduate Admissions, and
3 let's look at a document. I'm going to show you DX11 and ask
4 you if you recognize this.

5 A. Yes, I do.

6 Q. What is this?

7 A. This is the roster and committee membership and charge.

8 Q. And it looks like the first page has a listing of some of
9 the members of the advisory committee?

10 A. Yes.

11 Q. There's a category for faculty appointees?

12 A. Yes. There's a category for faculty across the college,
13 and allowing also for professional schools; and then there's a
14 category for deans of the professional schools, only the ones,
15 really, that have undergraduate students, and then a set of
16 ex officio members.

17 Q. Who are the ex officio members?

18 A. They are the registrar, the vice provost for enrollment and
19 undergraduate admissions, the associate dean for academic
20 advising -- that's one of the areas I had mentioned that's in
21 undergraduate education -- and then also the Associate Vice
22 Chancellor Bettina Shuford, who is basically the lead for
23 student affairs.

24 Q. And then there's a category for consultants. What role do
25 consultants play with respect to the group?

1 A. Consultants are people who have maybe some information that
2 they can bring to the table on certain types of topics, and
3 they regularly attend, and they can just offer information as
4 it comes up.

5 But it includes the head of the Academic Support Program
6 for Student Athletes; another member -- two members of the --
7 one member of undergraduate admissions, scholarship and aid,
8 and then also a person, Dr. Williford, from the Office of
9 Institutional Research and Assessment; and then the lead is
10 from the Center for Student Success, Dr. Marcus Collins.

11 Q. And then if we could take a quick look at the second page
12 of the document. There's a meeting schedule for 2014-2015.

13 Does that look like about the amount that the group
14 typically meets?

15 A. Yes, it does.

16 Q. Okay. And then I want to show you the committee charge
17 that's below that.

18 Could you describe what's in the committee charge?

19 A. Yes.

20 Q. It says "From the Faculty Code." What is that?

21 A. Okay. The Faculty Code is part of faculty governance. We
22 have a code that specifies the different kinds of committees we
23 have. We have elected committees, and we have appointed
24 committees, and we are -- and how we operate as a faculty -- as
25 the governance of our faculty.

1 And this is an important aspect. This is specified in the
2 code; and if we make a change to this code, then there's a
3 committee that will make the change to the code as part of
4 faculty governance.

5 Q. Does Subsection (a) set forth who will be on the committee?

6 A. Yes, it does.

7 Q. Then Subsection (b), could you read that into the record?

8 A. Yes. Subsection (b): "The committee serves in an advisory
9 capacity to the director of undergraduate admissions. In
10 particular, it addresses the design and application of
11 admissions policy, recommends guidelines for special talent and
12 exceptional admissions, and monitors and responds to the
13 national college admissions environment."

14 Q. Is that consistent with what this group actually does?

15 A. Yes, it is.

16 Q. And then it looks like Subsection (c) sets forth the -- how
17 often the committee will meet?

18 A. Yes. We usually meet twice a semester, and we sometimes
19 have a joint committee meeting with another member -- another
20 committee on faculty governance.

21 Q. Has the advisory committee discussed the importance of the
22 consideration of race as a factor in the admissions process?

23 A. Yes, it has.

24 Q. And does the advisory committee support the consideration
25 of race as a factor in the admissions process?

1 A. Yes, it does.

2 Q. I want to ask you about how the advisory committee reports.

3 Who does the advisory committee report to?

4 A. So it reports to the faculty governance, to Faculty
5 Council; and Faculty Council, these are elected members from
6 all around the university and relative to their numbers; and
7 they meet once a month.

8 Q. I want to ask you now about whether the advisory committee
9 prepares any kind of report.

10 A. Yes, it does. Every year we have -- we usually have a
11 schedule. It doesn't change very much, but it's usually often
12 in February, but not always. But we will be on the agenda for
13 the Faculty Council meeting. And all of the reports are
14 presented at different times of the year. And so you come, and
15 there will be a proper -- a full agenda, and then your report
16 will be presented, sometimes by title and sometimes in a full
17 presentation.

18 Q. Okay. I'd like to turn to an example of one of those
19 reports. If you could turn to DX22.

20 Do you recognize this document?

21 A. Yes, I do. It's a report of the advisory committee.

22 Q. And what year is this for?

23 A. For February 2016.

24 Q. But does it -- it state at the top 2014-2015?

25 A. I'm sorry. Yes, it is. It -- unfortunately, but there's

1 an odd aspect of when we report in, and so it captures prior
2 years, yes.

3 Q. So how -- what does this information reflect in this
4 document?

5 A. The 2014 to 2015 year.

6 Q. Okay. And I'd like to -- the first page of the document
7 sets forth members again, it looks like. So let's turn to the
8 second page of the document, and this -- at the top you see
9 that the report -- it says: "Report prepared by: Abigail
10 Panter" and "Stephen Farmer."

11 Did the two of you work together on this report?

12 A. Yes, we do.

13 Q. And I'd like to just look at the next section where it
14 talks about "Report of activities."

15 What is this intended to do?

16 A. This section -- so what happens is we -- members of this
17 committee rotate off on a certain cycle, so we are rotating new
18 members on. So every time we're doing this, we want to make
19 sure that everyone understands what the charge is, what the
20 membership is, that they have information about the annual
21 reports, and that they also understand how we're guided as a
22 committee, and what the other kinds of committees are that are
23 associated with this committee.

24 Q. Let's look at some of the examples of the types of
25 activities that the committee conducted in this particular

1 year.

2 What is the one that's listed as number one?

3 A. One is: "Oriented new and returning members to the work of
4 the committee and the Office of Undergraduate Admissions by
5 reviewing" certain documents.

6 Q. And what was the purpose of doing that?

7 A. The purpose is to understand why are we here, why -- what
8 is our charge before us, what are we intending to do when we
9 meet together regularly.

10 Q. And then the third one, could you read that into the
11 record?

12 A. Yes. "The University's admissions policy, as found in the
13 *Undergraduate Bulletin*."

14 Q. I'm sorry. My question was not very clear. If you go down
15 to No. 3, the third activity.

16 A. Sorry. Yeah. So "Discussed how the Office of
17 Undergraduate Admissions welcome" -- "welcome" -- sorry.
18 "Discussed how the Office of Undergraduate Admissions welcomes
19 students who visit campus, noting the crucial role that
20 200-plus students play as Admissions Ambassadors."

21 Q. Does the advisory committee discuss recruiting from time to
22 time?

23 A. Yes. This is an example of that.

24 Q. Okay. If you look at No. 4 on the list, what is that?

25 A. "4. Received an update from the working group studying

1 race-neutral alternatives in the evaluation of candidates for
2 admission."

3 Yes, this is an update from the Working Group on
4 Race-Neutral Alternatives.

5 Q. Okay. And if you look at No. 6, could you read that into
6 the record?

7 A. Yes. "Discussed a de-identified application for first-year
8 admission, noting the ways in which the application revealed
9 aspects of each student's potential to contribute to the
10 diversity of the student body, and especially to its
11 socioeconomic diversity."

12 Q. Does the advisory committee take an interest in
13 socioeconomic diversity?

14 A. Yes, it does.

15 Q. And overall, does this list illustrate some of the types of
16 things that the committee may talk about?

17 A. Yes, we review our agenda from the prior year and develop
18 the list from that and our topics.

19 Q. You can set that document aside.

20 I now want to ask you about the other committee that you
21 mentioned that you chair, the Committee on Race-Neutral
22 Strategies.

23 Could you describe who that committee reports to?

24 A. Yes. The Committee on Race-Neutral Strategies reports to
25 the provost and to the chancellor, and it gives -- it provides

1 reports regularly and for every meeting to the committee on
2 undergraduate admissions.

3 Q. And is it a subcommittee within the advisory committee?

4 A. Yes, it is.

5 Q. I want to --

6 A. It's one of the subcommittees.

7 Q. I want to take a look at a document here. This is DX54.

8 Do you recognize this document?

9 A. Yes, I do. It's the interim report for the committee that
10 I chair.

11 Q. And what is the title of the report?

12 A. It is "Examining Potential Race-Neutral Strategies in
13 Undergraduate Admissions at the University of North Carolina at
14 Chapel Hill."

15 Q. What is the date of the report?

16 A. May 2018.

17 Q. And I want to look at this document in some detail. And
18 there are some places where I may be flipping, you know, back
19 and forth, so I'm going to do my best to make sure we're all on
20 the same page, but if you get lost, please just let me know.

21 Let's first start by looking at page 2 of the document, and
22 if you could read the first paragraph into the record.

23 A. Yes. "In Spring 2016 a committee of faculty, professional
24 staff, and administrators was convened and charged by Provost
25 James Dean to examine workable race-neutral strategies and

1 practices in the undergraduate admissions at the University of
2 North Carolina at Chapel Hill ('The Committee on Race-Neutral
3 Strategies'). This Committee, a Subcommittee of the standing
4 faculty governance Advisory Committee on Undergraduate
5 Admissions" -- and then faculty code information -- "was
6 charged to:..."

7 Q. And I do want to go through each of the charges, so could
8 you start with the first -- the number 1 under charge?

9 A. Yes. "1. Consider whether there are workable race-neutral
10 strategies and practices that the Office of Undergraduate
11 Admissions could employ in evaluating applications for
12 undergraduate admission."

13 Q. And then what is the second part of the charge?

14 A. The second is: "Advise the Office of Undergraduate
15 Admissions about these strategies and practices."

16 Q. What is the third?

17 A. And "3. Report to the Advisory Committee on the
18 Committee's consideration of specific race-neutral strategies
19 approximately every two years. In addition, the Committee
20 will, as appropriate, provide information regarding its
21 assessments and recommendations to the Dean of the College of
22 Arts and Sciences, the Executive Vice Chancellor and Provost,
23 the Chancellor, and the Board of Trustees."

24 Q. Is this consistent with your understanding of the charge?

25 A. Yes.

1 Q. And is this how the committee has worked in practice?

2 A. Yes.

3 Q. I want to look below there where it talks about -- it says
4 that there's a full committee charge in Appendix A. Is there a
5 more fulsome version of the charge?

6 A. Yes, there is.

7 Q. But this summarizes it at a higher level?

8 A. Yes.

9 Q. Okay. The next sentence says: "The Committee membership,
10 including a short description of member areas of expertise are
11 given in Appendix B." And so I want to take a look at that.
12 If you can please turn to -- page 13 of the document is where
13 Appendix B begins, but we're actually going to be looking at
14 page 14, where the membership is set forth.

15 Does this list the membership for the Committee on
16 Race-Neutral Strategies?

17 A. Yes.

18 Q. And then do you see short biographies for each of the
19 members?

20 A. Yes.

21 Q. How is this committee selected?

22 A. This committee was selected to -- by thinking about who are
23 the best people in this university who could come to the table
24 and address the charge in an open way, and -- so we tried to
25 ensure that everyone who was selected had expertise that they

1 could bring to this question at hand.

2 Q. Can you describe a couple of examples of the type of
3 expertise that the group can -- the group has?

4 A. Yes. So as I mentioned before, Dr. Alexander is an expert
5 in diversity and inclusion and a professor of nursing, as I was
6 mentioning earlier.

7 Patrick Curran -- Dr. Patrick Curran is a professor of
8 psychology and neuroscience. He is an expert in data
9 integration and harmonizing different data sets. He is an
10 expert in longitudinal data analysis and other modeling
11 approaches.

12 Dr. Michael Kosorok, who is the chair of biostatistics at
13 the Gillings School of Global Public Health at UNC-Chapel Hill,
14 is an expert in machine learning and different models --
15 parametrics and semiparametric models, estimation models,
16 especially in areas of health overall -- and he's also an
17 expert in causal inference.

18 Holning Lau -- Professor Holning Lau is a professor in the
19 School of Law whose area is -- who works in the area of
20 diversity and inclusion.

21 Others -- I mentioned Dr. Shuford, who is the associate
22 chancellor for student affairs, who has expertise in studying
23 how students -- their experiences outside of the classroom and
24 how we can enhance those experiences overall.

25 We have Stephen Farmer, the vice provost of admissions, who

1 is an obvious one that we would include as well, as well as
2 other members of the admissions -- undergraduate admissions.
3 Dr. Kretchmar is another person who works with data around
4 admissions.

5 So there -- this is a group of individuals who bring
6 expertise in their areas and strengths to address a critical
7 topic for us.

8 Q. I want to go back now to that second page of the document
9 that we were looking at, page 2, below the charge; and here it
10 talks about -- after we talk about the membership, it talks
11 about what the committee was asked to evaluate.

12 Could you start there and read that into the record?

13 A. Yes. "The Committee was asked to evaluate what
14 race-neutral alternatives, if any, would allow the University
15 to achieve its joint objective and mission to achieve diversity
16 in the incoming undergraduate student body while at the same
17 time not sacrificing academic quality and/or requiring an
18 untenable administrative expense. The work of this committee
19 included considering the University's existing diversity
20 interests and objectives, whether existing admissions practices
21 are needed to help the University meet those interests and
22 objectives, and what, if any, adjustments to the current
23 practices are warranted."

24 Q. Does that -- does that accurately describe the work of the
25 committee?

1 A. Yes.

2 Q. Then I want you to go ahead and have you read that next
3 sentence which starts on page 2 and goes on to page 3.

4 A. Yes. "The Committee approached the charge and the tasks
5 before them in a scholarly way, with good faith, with an open
6 mind, and without preconceived notions about what the Committee
7 might discover."

8 Q. What does that mean?

9 A. It means that we, as a Research I university that -- that
10 does research and does scholarly work for a living and is
11 the -- really the top university in the country -- one of the
12 top universities in the country, we are coming to this question
13 with that state of mind of coming together to address an
14 important difficult topic and bringing our expertise to that
15 topic.

16 Q. And do you agree with that statement that the group
17 approached "in a scholarly way, with good faith, with an open
18 mind, and without preconceived notions about what the committee
19 might discover"?

20 A. Absolutely.

21 Q. I want to now look at the general summary of committee
22 activities, which comes next on page 3, and that first sentence
23 talks about the committee's meetings.

24 Could you read that?

25 A. Yes. "The Committee met regularly beginning in Spring 2016

1 with a total of 15 meetings as of April 9, 2018."

2 Q. And then it states that "Meeting dates and minutes are
3 presented in Appendix C"?

4 A. Yes.

5 Q. Okay. I want to turn to Appendix C briefly, which is at --
6 page 19 of the document is where that begins. That says
7 "Committee on Race-Neutral Alternatives, Meeting Dates and
8 Minutes." And then if you look at the first page of that,
9 which is page 20 of the document, does this list the different
10 meeting dates?

11 A. Yes, it does.

12 Q. Does it look accurate to you in terms of when the committee
13 met?

14 A. Yes, it does.

15 Q. Okay. And then behind that are several pages of meeting
16 minutes. If you can look at page 21. That's the first page of
17 those.

18 Did the committee take minutes of its meetings?

19 A. Yes.

20 Q. How did that work?

21 A. The associate provost takes the minutes, and we are -- and
22 we have discussions. We vote on the prior minutes on the -- we
23 look for edits and make sure the minutes are accurate. We vote
24 on the prior minutes, and then we have a discussion about what
25 we're -- what we're planning to do and what we do.

1 Q. I want to now go back to page 3, which is where we just
2 were under the "General Summary of Committee Activities," and I
3 want to look at the first heading underneath that, which states
4 "University's Diversity Initiatives and Objectives."

5 Could you please read this section?

6 A. Yes. "University's Diversity Initiatives and Objectives.
7 The Committee evaluated whether there are race-neutral
8 alternatives that would allow the University to achieve" those
9 objectives -- "these objectives without sacrificing the
10 academic quality of the entering class or imposing intolerable
11 administrative expense. Without clear operational definitions
12 for potential intolerable cost, the Committee sought to
13 understand and determine what intolerable administrative cost
14 might be in the local context of the University. The Committee
15 consideration included information gleaned from University
16 leaders, faculty members, and students; whether existing
17 admissions practices are necessary to help the University meet
18 its diversity interests and objectives; and what, if any,
19 adjustments to those practices are warranted."

20 Q. Is that an accurate statement of what the committee has
21 done?

22 A. Yes, it is.

23 Q. And what was the discussion that -- that you had around the
24 concept of intolerable administrative cost?

25 A. So that had to do with -- well, first, recognizing the goal

1 in mind, which is to ensure that the entering class has
2 comparable academic preparedness and diversity of the class --
3 having that goal in mind, could we -- is there a solution and
4 can we find a solution, if we found one, that would not --
5 well, there's a financial piece which is difficult for our
6 committee to handle at this point.

7 But we also wanted to find out whether there are certain
8 kind of data that would be relevant for this situation; would
9 there be data that would be not timely -- collected in a not
10 timely way, that would not be with the natural cycle of our
11 students entering into the admissions process; is there -- are
12 there certain kind of data that would not be valid for us to
13 use. So we're asking about kind of situations where it would
14 not be reasonable for us to think about the potential solution,
15 and that is something that also requires additional
16 consultation since there are areas we would not be able to
17 comment.

18 Q. And you mentioned the financial piece is one of those. Is
19 that something others would need to weigh in on?

20 A. Yes, that's something that -- our expertise is in really
21 developing solutions, and I think the aspect of the cost is
22 something that really would be other stakeholders, such as the
23 provost and the chancellor and other committees, looking at
24 that.

25 Q. And at the appropriate time would you seek that kind of

1 feedback if you needed it?

2 A. Yes, we would have to because we wouldn't have expertise in
3 our committee.

4 Q. I want to talk about the next section that talks about
5 legal standards and guidance for undergraduate admissions.

6 Could you just read the first couple there?

7 A. Yes. "Legal Standards and Guidance for Undergraduate
8 Admissions. To assure that the Committee's evaluation was
9 informed by existing legal standards and guidance, as well as
10 the practices of the University's peer institutions, the
11 Committee discussed legal development "as undergraduate"
12 admission -- I'm sorry -- "legal developments as undergraduate
13 admissions at comparable, highly selective institutions. The
14 Committee received legal input and framing from University
15 Counsel, as well as Professor Lau, at multiple points during
16 its work. Examples of examined materials include reading
17 documents from the Office of Admissions, briefs on admissions
18 practices by the College Board, journal articles, and items
19 from the media about undergraduate admissions practices around
20 the country."

21 Q. And does this all accurately summarize the role of legal
22 framing and guidance?

23 A. Yes.

24 Q. I want to look now at the next section, "The University's
25 Mission and Diversity Goals."

1 And could you please read the first sentence to start off?

2 A. Yes. "The University's Mission and Diversity Goals. The
3 Committee engaged in a robust discussion of the University's
4 mission and diversity goals, including the educational benefits
5 of diversity, and the importance of a diverse student body to
6 achieving those goals. The Committee invited Executive Vice
7 Chancellor and Provost James Dean to lead a discussion about
8 the important role of student body diversity specifically, and
9 diversity in work settings. Many of the ideas that Provost
10 Dean expressed during this meeting appeared in his May 2017
11 report....."

12 Q. And you don't need to read the title, but is that report
13 attached to this as Appendix D?

14 A. Yes.

15 Q. Is that consistent with what the committee did in terms of
16 having a robust discussion on that topic?

17 A. Yes. And Provost James Dean is an expert in the area of
18 organizational psychology, so he was bringing a lot of the
19 literature on work -- the work outcomes as well.

20 Q. And the next heading here says "Current Undergraduate
21 Admissions Policies and Practices." Does this describe the
22 ways that the committee learned about those practices?

23 A. Yes.

24 Q. Okay. I think we can move to the next one, which talks
25 about development and initial activities of working

1 subcommittees, and this is on page 4 of the document.

2 A. Yes.

3 Q. Do you see that?

4 A. Yes.

5 Q. Okay. Could you please read this?

6 A. Okay. "Development and Initial Activities of Working
7 Subcommittees. The Committee reviewed an earlier report,
8 *Exploring Race-Neutral Alternatives in Undergraduate Admissions*
9 (Appendix E) prepared by the Working Group on Race-Neutral
10 Alternatives. To understand that report's findings and
11 conclusions, the Race-Neutral Strategies Committee met with the
12 members of the Working Group and then as a group, identified
13 specific ways to extend and build upon their prior work. The
14 Committee considered the prior work carefully, yet felt free to
15 explore new directions and were not bound by specific
16 methodologies or approaches used previously. As a result, the
17 Committee organized into three working Subcommittees."

18 Q. This description related to the prior report. Is that an
19 accurate statement of what happened?

20 A. Yes, it is.

21 Q. Okay. And could you describe -- did you have an
22 opportunity to meet with members of that working group to hear
23 about their work?

24 A. Yes, we do.

25 Q. What were your impressions of the work?

1 A. So we had strong, positive impressions that it was an
2 excellent literature review and -- that really brought us up to
3 speed on key developments in the area. And then we were happy
4 to see the multiple ways that they were beginning to look at
5 the -- at different simulations that they did on -- on the
6 entering class and preparedness -- academic preparedness and
7 diversity of the class. So we thought it was a good foundation
8 for us to begin our work.

9 Q. And the next section talks about regular reporting of
10 subcommittee activities and research priorities. And I don't
11 know that we need to read that, but could you just describe how
12 the structure of the committee worked?

13 A. Yes. So we learned earlier on that we really -- because we
14 have expertise in certain areas and that the -- there are
15 certain kinds of directions that we wanted to head, we
16 thought about just structuring it so that we would have
17 subcommittees -- three subcommittees: One about literature,
18 one about data analytics, and one about the experiences of
19 students at UNC-Chapel Hill. So we organized them that way,
20 and the group -- subgroups worked separately and then reported
21 in to the larger group.

22 Q. And then if you look at page 4, it talks about the three
23 working subcommittees' charges. Do you see that?

24 A. Yes, I do.

25 Q. And then it says: "The charge for each Subcommittee is

1 given in Appendix F"; is that right?

2 A. Yes.

3 Q. And then we look and see that those are summarized right
4 below there. Is that accurate?

5 A. Yes.

6 Q. Let's look at the actual charges for those subcommittees at
7 Appendix F.

8 A. Okay.

9 Q. If we can turn, please, to page 107 of the document. Is
10 that where Appendix F begins?

11 A. Yes.

12 Q. And then if we look at page 108, that's the first charge.

13 Can you please walk us through the charge for the
14 Literature Review Subcommittee?

15 A. Yes. So -- shall I read it or shall I just --

16 Q. Why don't you explain -- first explain what the Literature
17 Review Subcommittee does.

18 A. Okay. So what we wanted to do was -- we knew that the
19 literature review covered a certain period up to this point,
20 and we wanted to make sure that we were following the
21 literature since the literature is changing. So -- and new
22 ideas are coming as they come and are published, so we wanted
23 to be assured that we are aware of them.

24 So we -- this literature review was to update the prior
25 report's literature review and to help us identify some key

1 | directions for our work to go in. And so this is what this was
2 | about, and Professor Lau conducted this literature review.

3 | Q. And it talks about the questions that they should address
4 | "...questions such as the following..."

5 | Can you read those questions?

6 | A. Yes. The questions: "What studies have been published
7 | since that Working Group's previous literature review?"

8 | Or "What are race-neutral admissions strategies that have
9 | been adopted by other schools, especially peer schools and
10 | aspirational target schools? Should UNC-Chapel Hill study the
11 | potential effects of adopting" those -- "these practices?"

12 | And another one: "What has been said in academic
13 | literature and public policy reports about the types of studies
14 | a university should conduct to assess its need for
15 | race-conscious admissions?"

16 | And have there been -- "Has there been any discussion in
17 | court documents," such as "briefs and judicial opinions, about
18 | the types of studies a university should conduct to assess its
19 | need for race-conscious admissions?"

20 | Q. Did the committee believe it was important to look at
21 | multiple sources for potential options?

22 | A. Yes.

23 | Q. And if you look at the next charge, which is on page 109 of
24 | the document, it's the charge for the Data Analytics
25 | Subcommittee.

1 First, if you could describe in your own words what that
2 subcommittee is.

3 A. This is a group that deals with the applicant data -- well,
4 at the time the applicant data and it's -- they're experts who
5 are expert modelers and experts in bringing together different
6 data sources and harmonizing those sources.

7 So this group was charged to look at the different sources
8 that were available to us for feasible academic approaches that
9 could be supported -- to support the careful consideration of
10 race-neutral approaches in undergraduate admissions, also to
11 empirically evaluate these analytic approaches and their
12 ability to achieve the institutional outcomes for incoming
13 undergraduate classes, and also to provide regular updates and
14 reports to our larger committee so that we could provide a
15 broader input.

16 So even though we had experts -- really top experts in data
17 and data analysis, we thought it was very important for our
18 full committee to be constantly weighing in on what -- does
19 this make sense? Does this make sense? Is this an approach to
20 move in? How do we go? So everyone was able to weigh in on
21 the approach that was -- the approaches that were being used.

22 Q. Thank you. Let's turn now to the third charge, and that's
23 the charge for the Impact of Diversity on the Student
24 Experience Subcommittee at page 110.

25 A. Yes.

1 Q. Do you see that?

2 A. Yes.

3 Q. And could you describe the purpose of this particular
4 committee?

5 A. This is really to describe what happens after the students
6 enter -- walk through the door. The students are coming in and
7 having experience -- meaningful experiences at -- in college
8 that are about intellectual pursuits, and how their experiences
9 unfold as they are students through Carolina.

10 So we -- this committee is about understanding the
11 perspective of current students and their experiences and how
12 diversity that has contributed to those experiences. So this
13 is -- we wanted to make sure that we were also aware of
14 different kinds of surveys that existed where we could be
15 getting the student voice coming in to talk about the
16 experience.

17 Q. And how does the work of this particular committee
18 contribute to the consideration of race-neutral alternatives?

19 A. Well, this is -- allows us to understand what -- how
20 students are experiencing the everyday academic life and their
21 academic lives, how they're experiencing their undergraduate
22 education; and this is a critical aspect of whether the
23 educational benefits are being activated in the different
24 settings in which our students find themselves. Whether it is
25 the classroom or after class or the hallways or wherever it's

1 going to be, we wanted to make sure that we understood how the
2 students are experiencing their undergraduate education.

3 Q. Thank you.

4 I want to go back now to the main part of the report at
5 page 5 and look at the section where it talks about general
6 findings and ongoing work from the subcommittees. Do you see
7 that?

8 A. Yes.

9 Q. And this talks about "Reports for each of the
10 Subcommittees...are provided in Appendix G and have been
11 reviewed by the larger Race-Neutral Strategies Committee."

12 Did each of the committees do their own report?

13 A. Yes, they did.

14 Q. And then does this document attempt to summarize those
15 activities at a higher level?

16 A. Yes. So each report -- everyone had been reviewing all the
17 components of each report as it was happening.

18 Q. I want to walk through at the higher level, if we could.
19 So if you could look at -- where it talks about the Literature
20 Review Subcommittee, could you please read the first couple
21 sentences of that?

22 A. Yes. "The Literature Review Subcommittee. This
23 Subcommittee updated the literature review completed by the
24 Working Group on Race-Neutral Alternatives. This updated
25 literature review identified five major categories of

1 race-neutral strategies discussed in the academic literature
2 and explored the race-neutral practices at other institutions:
3 Existing" --

4 Q. What are those five categories?

5 A. Excuse me?

6 Q. I was asking, what are those five categories that it's
7 referencing?

8 A. Yes. They are "existing percent plans, plans based on
9 socioeconomic status, eliminating legacy/development
10 preferences and early admissions programs, race-neutral
11 holistic reviews, and increased outreach" to -- "for
12 top-performing students from underrepresented groups."

13 Q. Let me just ask first: Is that your understanding of what
14 the group did?

15 A. Yes.

16 Q. And if you look at the first sentence of the next
17 paragraph, what does that state?

18 A. "The Subcommittee reviewed literature about three
19 race-neutral admission strategies: (1) percent plans;
20 (2) socioeconomic affirmative action programs and
21 (3) race-neutral diversity essays."

22 Q. Do you have an understanding of how the group went from the
23 five areas to the three that it reviewed?

24 A. Yes. Well, we had a discussion about the five areas and
25 where we felt we could contribute in those areas, and we felt

1 that these were the areas where we could see most promise.

2 Q. Okay. I want to point you now to the next paragraph and
3 ask you about the first sentence. Could you read that?

4 A. Yes. "Research" general -- the "Research generally
5 suggests" -- is that --

6 Q. Yes.

7 A. "Research generally suggests that percent plans are
8 unlikely to be effective and efficient substitutes for
9 admission strategies that overtly consider race."

10 Q. What is this indicating?

11 A. This is talking about percent plans that exist around the
12 country.

13 Q. And are there similar conclusions at the bottom of the
14 paragraph about socioeconomic affirmative action programs? If
15 you look at the second-to-last sentence of that paragraph.

16 A. Yes, yes. "Similarly, research generally suggests that
17 socioeconomic affirmative action programs -- which grant
18 preferential treatment to applicants from disadvantaged
19 socioeconomic backgrounds -- are also unlikely to produce
20 effectively desired levels of racial diversity."

21 Q. Is that what was reported to the broader committee?

22 A. Yes.

23 Q. And then what does the last sentence say about the third
24 area?

25 A. It says: "Meanwhile, the Subcommittee found that there is

1 a dearth of literature on the effects of race-neutral diversity
2 essays."

3 Q. Despite the fact that the literature did not appear
4 particularly promising here, did the subcommittee make any
5 recommendations to the broader group?

6 A. Yes, we -- we -- not recommendations. We just moved in
7 those directions -- in our directions.

8 Q. Okay. Could you read the paragraph that starts at the
9 bottom of page 5, "This literature review has cast doubt..."?

10 A. Yes. "This literature review has cast doubt on the utility
11 of race-neutral strategies as complete substitutes for overt
12 considerations of race. Still, the literature suggests that
13 the outcomes of race-neutral admission strategies vary
14 depending on the circumstances surrounding" -- all right.

15 Q. Yeah, if you can go to the top where --

16 A. -- "particular universities at issue."

17 Q. Okay. And then does it go on to provide some potential
18 directions?

19 A. Yes, it does.

20 Q. And I want to take you to where it talks about future
21 directions for this particular committee. Do you see that?

22 A. Yes.

23 Q. And what is the intent for this subcommittee going forward
24 at the time of the interim report, May 2018?

25 A. So it was to continue to work on these alternatives,

1 | whichever we've identified as promising directions, and
2 | continue to identify research and promising alternatives for --
3 | that may account for any new practices or reported outcomes
4 | from our peers. So it was to move in these directions, as well
5 | as to keep our eyes open for something that might be an option
6 | that emerges as well.

7 | Q. I just want to go up to the paragraph right before that
8 | where it talks about the particular strategies that the
9 | literature review says that the group may want to look into.
10 | Could you look at where it says "Accordingly..."?

11 | A. Yes. "Accordingly, the Committee on Race-Neutral
12 | Strategies should examine these strategies' appropriateness
13 | specifically for UNC-Chapel Hill."

14 | Q. And then go -- could you continue?

15 | A. Yes. "For its 2016 report, the Committee conducted
16 | simulation-based evaluations of implementing various percent
17 | plans at UNC-Chapel Hill. Those simulations can be updated and
18 | expanded. The Committee should also run simulations of
19 | socioeconomic affirmative action programs, perhaps drawing
20 | inspiration from the 'Disadvantage Index' used by the
21 | University of Colorado at Boulder's admissions office. This
22 | examination of a version of the index is feasible because
23 | UNC-Chapel Hill can identify matches or close proxies for most
24 | variables comprising the Colorado index and can potentially
25 | supplement that index with additional variables." And then

1 "Finally, the Committee should consider having further
2 discussions about the advantages and disadvantages of
3 race-neutral diversity essays, but there is very little
4 existing empirical research to inform such discussions."

5 Q. So are these some recommendations or thoughts coming out of
6 the literature review?

7 A. Yes.

8 Q. And did the committee consider these?

9 A. Yes.

10 Q. And did it pursue some of the directions?

11 A. Yes.

12 Q. Okay. I would like to now turn to the Data Analytics
13 Subcommittee, and that's No. 2 here. Could you read the first
14 paragraph of the summary of that effort?

15 A. Yes. "The Data Analytics Subcommittee. This Committee
16 [sic] conducted an analysis designed to empirically examine the
17 role of various undergraduate applicant factors (including
18 race/ethnicity) that were considered as part of the holistic
19 admissions process during the 2016-2017 application cycle and
20 presented its findings to the larger Committee. The
21 Subcommittee also developed infrastructure for statistical and
22 data analyses that ultimately can be used to evaluate potential
23 race-neutral alternative strategies. After completing
24 analyses, the Subcommittee examined its findings across five
25 application cycles: The current year as well as the four prior

1 years." So that's 2012-13, 2013-14, 2014-15, 2015-16, 2016-17.

2 Q. And just to break that down a little bit, could you
3 describe in your own words what this is referencing in terms of
4 work?

5 A. Yes. It is understanding the applications that are
6 submitted to UNC-Chapel Hill and the information that's behind
7 them, and that includes a lot of information, so assembling
8 that information together in one space so that it can be
9 evaluated regularly.

10 Q. And then if you look at the next paragraph, it talks about
11 that modeling of the university's admissions process.

12 A. Yes.

13 Q. If you look about halfway down the paragraph, it talks
14 about key findings. Could you read "Key findings..." into the
15 record, please?

16 A. Yes. "Key findings reflect that there are...a number
17 of" -- "there are a large number of unique applicant variables
18 that predict admissions status, including underrepresented
19 minority status. Importantly, however, when the model was
20 evaluated without information about applicants' racial/ethnic
21 status, the model's accuracy in terms of the prediction of the
22 applicants' admissions outcome was virtually unchanged. This
23 finding reflects that underrepresented minority status does not
24 meaningfully drive the prediction accuracy of the final
25 multivariate model. Put differently, applicants' race/ethnic

1 status does not dominate the outcome decision within the
2 current admissions process."

3 Q. Did you have an opportunity to look at those models?

4 A. Yes, we did.

5 Q. And did you -- do you agree with the key findings that are
6 set forth there?

7 A. Yes, I do.

8 Q. I want to look at future directions for this group.
9 Actually, first, let me take a step back and ask you -- there
10 was also a reference to the infrastructure that that group
11 created.

12 What is this infrastructure?

13 A. Well, we're coming into -- we're coming into a charge where
14 we're evaluating a set of questions -- important questions at
15 hand, and we needed to make sure that we -- to do -- that we
16 were able to have data assembled in a particular way -- first
17 of all, access to data and then data assembled in a particular
18 way so that we could start answering questions that are of
19 interest to the committee. So that's what -- that's what
20 happened. It's a process that occurs of making sure that we
21 are assembling different sources of information.

22 Q. Now let's turn and look at the future directions, and it
23 talks here about four primary directions. Do you see that?

24 A. Yes.

25 Q. Can you walk us through each of the four directions,

1 starting with the first one?

2 A. Okay. "Future Directions. There are four primary
3 directions to which we next turn. First, these initial models
4 were only fitted to available 2016 data; the models will be
5 expanded to a simultaneous analysis of all five years of data
6 to formally examine stability and change in trends over time."

7 Q. Okay. And I want to just show you another exhibit briefly,
8 which is Exhibit DX55. This is dated June 22 of 2018, so
9 shortly after this report.

10 What is this e-mail?

11 A. So this an e-mail from Professor Kosorok to
12 Professor Curran and to me indicating that the graduate
13 research assistant who is working on data analysis and
14 Professor Kosorok have completed year-wise analyses from 2012
15 to 2016, and is summarizing the fact that there -- the analyses
16 do not vary much at all from year to year. Their accuracy of
17 the full model with certain terms in are still -- it's still
18 very high, and there is still very little difference in
19 accuracy when you take out, versus include, race and ethnicity.
20 So "the story," as he says, "is the same as...the previous
21 analyses we provided, and it is quite consistent
22 across...years."

23 Q. And if we look at the next page of that document, it looks
24 like there's a bunch of attachments. Is this the work that
25 they did to each of the models --

1 A. Yes.

2 Q. -- if you can just flip through -- potentially?

3 A. Yes, that's it.

4 Q. Okay. I'd like to go back now to the Exhibit DX54 where we
5 were looking on page 7 at the future directions for the Data
6 Analytics Committee [sic]; and while we do that, I want to ask
7 you a question about something you mentioned.

8 You mentioned a graduate assistant. Did the university
9 provide support for these committees in order to do their work?

10 A. Yes.

11 Q. Can you talk about that?

12 A. So the -- the currency of -- in universities for graduate
13 assistants is a graduate stipend, and we provided a graduate
14 stipend and support for graduate students in biostatistics.
15 This is a doctoral student -- a person working toward their
16 doctorate in biostatistics who is -- who is becoming expert in
17 these models that we're looking at here.

18 Q. And was support also provided to the Literature Review
19 Subcommittee as well?

20 A. To the extent that they needed it.

21 Q. I want to ask you about the second direction that's listed
22 here on page 7, and it's in the top paragraph where it says
23 "Second, efforts...."

24 A. Yes.

25 Q. Can you read that, please?

1 A. Yes. "Second, efforts will be made to link the existing
2 admissions data to extant family-level data to provide more
3 comprehensive information about constructs such as
4 socioeconomic status (SES). The currently available data only
5 provide information about first-generation status and fee
6 waiver requests. Much more comprehensive information about
7 family income, parent education, and parent occupation are
8 needed to more fully assess SES. These data allow us to have a
9 fuller understanding of a student's full record, continue to
10 identify relevant and available indicators about family
11 background and SES from the literature, and discuss how
12 educational benefits flow from a diverse student body during
13 college."

14 Q. And did you agree that it was an important step to obtain
15 additional data about SES?

16 A. Yes, I did. We did not have a lot of information in the
17 applicant -- in the space where we were operating in the
18 applicant data around the construct of socioeconomic status,
19 and specifically, we are -- we had whether our student was
20 first-generation college student. And though I've studied that
21 area quite a bit, that is one important variable. And we had
22 fee waiver, which is -- really only shows up a certain portion
23 in the sample and may not be our best indicator of family
24 income and assets.

25 Q. I want to ask you about the third direction which is

1 talking about more advanced machine learning methods.

2 In your own words, what is that direction?

3 A. So this is a direction of using neural network models to
4 predict the outcome of whether a student is denied, is put on a
5 waitlist or accepted, and then the process of whether the
6 student enrolls.

7 And so this process is a -- is one where we can use the
8 variables that we have to -- to answer the question about
9 whether we'll have about equivalent academic preparedness for a
10 student body and about the same level of racial -- race and
11 ethnic diversity in the student body, and it's -- it's a way
12 for us to understand how we can generate from the variables
13 that we have the kind of outcome of a -- of an essentially
14 equivalent student body like what we have and what we select
15 every year through a holistic, comprehensive review.

16 Q. And if we could look at the last direction, which starts
17 with "Finally...", can you read that, please?

18 A. Yes. "Finally, the data analytic committee will carefully
19 review expert reports prepared in the University's lawsuit to
20 ensure that future analyses consider promising directions and
21 approaches. Taken together, these results will provide a
22 stronger understanding of the current applicant review and the
23 admissions process."

24 Q. Was there an intent to review and learn from the expert
25 work in this case?

1 A. Yes.

2 Q. Did that include the expert reports of both sides?

3 A. Yes.

4 Q. I want to ask you had you had a chance to review the expert
5 reports around this time frame of the May 2018 report in order
6 to assist the lawyers?

7 A. Yes.

8 Q. And had -- so you had personally reviewed those reports?

9 A. Yes.

10 Q. Was there an intent to have the whole committee undertake
11 that exercise at some point?

12 A. Yes.

13 Q. If there was something that you had seen that appeared
14 promising, would you have taken it to the committee?

15 A. Yes.

16 Q. As of the interim report, there was a plan for -- for a
17 deeper dive with respect to those reports? Is that fair?

18 A. Yes, that's correct.

19 Q. And has the committee as a whole looked to litigation to
20 obtain information generally?

21 A. Well, yes. We are following everything. We're trying to
22 follow everything. So it's the social science literature, the
23 legal literature, and then just actions within -- within the
24 system. So -- so we're looking, and we're regularly updating
25 where we are based on what we're seeing. And, you know, there

1 is -- we're look -- there's information coming out, and so we
2 are bringing it to bear to this process. There's a lot we can
3 learn and are learning from reading the literature and from
4 seeing what others do.

5 Q. I now want to talk to you about the Student Experience
6 Subcommittee, and that's the one that's listed, and their
7 review is summarized on page 7 of the report. Do you see that?

8 A. Yes.

9 Q. Could you read the first paragraph?

10 A. Yes. "The Student Experience Subcommittee. This
11 Subcommittee analyzed existing university survey instruments
12 that are regularly administered to undergraduate students at
13 UNC-Chapel Hill and looked at evidence regarding campus
14 climate, psychosocial development, student engagement, and
15 learning outcomes. It also conducted a review of the higher
16 education and social sciences literature on student engagement,
17 perceptions of campus climate, sense of belonging, psychosocial
18 development and learning outcomes."

19 Q. Are those activities that they have undertaken?

20 A. Yes.

21 Q. And then it talks, going forward, about some modeling
22 efforts as well. Could you describe those in your own words?

23 A. Yes, we -- we started with -- we started in the realm of
24 student affairs, which is -- there was a survey that is
25 generally administered to students called the

1 Multi-Institutional Study of Leadership. So we used that
2 survey to pull out items that mapped well onto the constructs
3 that I was just talking about -- for example, student
4 engagement, perceptions of campus climate, and sense of
5 belonging -- and then, using statistical models, modeling how
6 those variables relate to student outcomes around learning and
7 leadership. And because Professor Curran is an expert in the
8 modeling of those kinds of models, we borrowed him for this
9 committee.

10 Q. And then, you know, this also goes on to look at some
11 future directions, if you see page 8, for that particular
12 committee.

13 Could you just describe at a high level what some of the
14 future directions are for this particular committee?

15 A. Yes. We -- okay. We wanted to make sure that we were
16 looking at the best kind of survey that we could in this
17 situation. So we wanted to -- first, we wanted to take that
18 survey result and link them to undergraduate admissions data to
19 the extent that we could.

20 And then we wanted to see whether we could examine the
21 modelings that we were looking at, including prior panels of
22 data, because this is not the first time that survey was
23 administered, so that was one time -- point in time, so we
24 wanted to look back.

25 And then we wanted to look to see if there's something that

1 we could do overall, some kind of national benchmarking, maybe
2 using -- we have another survey that we used called the SERU,
3 Student Experience in the Research University, survey; would
4 that be a better space to be doing this kind of work and could
5 we think about broadly adding items to the SERU that would be
6 ones that would assess these constructs even more. So there --
7 in a way that we would be even more confident.

8 So we wanted to make sure that -- because a SERU is
9 nationally benchmarked, that we are -- make sure that we are
10 maybe using the SERU, and that we are able to develop items
11 that would be tied to the constructs in a more accurate way.

12 Q. Is there some overlap between the work of the educational
13 benefits and diversity group as well as this subcommittee?

14 A. Yes, yes, because there's certain mapping, there's
15 constructs that we are interested in related to educational
16 benefits of diversity. And they appear, those items, and items
17 that are capping the constructs of interest or the ideas like
18 robust exchange of ideas or whether people really do enhance
19 their learning in empathy or their ability to take the
20 perspective of others -- those kinds of constructs, we want to
21 ensure that we're assessing them in the best way possible. So
22 the Educational Benefits of Diversity Working Group also is
23 concerned with those kinds of surveys. So it is -- there is
24 some parallel work in that way.

25 Q. And is there an intent to try to make sure that the groups

1 are coordinated in that respect?

2 A. Yes, yes, because we're working with -- you know, again,
3 our Office of Institutional Research and Assessment administers
4 the SERU regularly, so we are able to coordinate in that way.
5 And we do coordinate.

6 Q. I want to look at the "Conclusion" section of this
7 document. That starts on page 9 in the middle, and it talks
8 about the work of the committee being ongoing.

9 Could you start there and read that into the record?

10 A. Yes. The second paragraph? You're talking about the
11 second paragraph?

12 Q. It's the -- right under "Conclusion" at the top --

13 A. Okay.

14 Q. -- starting with "The work of the Committee...."

15 A. "The work of the Committee is ongoing, and the Committee
16 will continue to use multiple pathways of analyses to identify
17 potential race-neutral alternatives for undergraduate
18 admissions at UNC-Chapel Hill. The potential alternatives are
19 examined while considering, in light of the University's
20 mission, current campus climate and the academic needs of its
21 student body. Key directions include: Ensuring that emergent
22 potential options from national peers or common demonstration
23 projects are evaluated; empirically assessing the relative
24 weight of race/ethnicity as compared to other competing
25 factors, particularly socioeconomic indicators, as alternatives

1 when modeling admissions data over time using all potential
2 variables that could be available during holistic review; (c)
3 using the strength of student and academic data from existing
4 undergraduate survey administrations -- locally at UNC-Chapel
5 Hill and nationally across institutions that vary on multiple
6 dimensions -- to understand campus climate as a function of
7 race/ethnicity; and" then finally "enhancing national data
8 collections efforts, where possible, with supplemental relevant
9 survey items, thereby contributing to the national dialogue
10 about the role of race/ethnicity in the campus climate."

11 Q. Does that accurately reflect what the key directions were
12 at the time of the interim report in 2018?

13 A. Yes.

14 Q. And the next paragraph talks about documentation and
15 presentation of efforts and how it's going to be distributed.

16 Could you just describe sort of at a high level how this
17 work is getting reported out?

18 A. Yes. So what we do is -- the committee on undergraduate
19 admissions -- Advisory Committee for Undergraduate Admissions
20 meets twice a semester. Every time it meets there is an
21 update. I might give the update. There are different updates.
22 Dr. Shuford sometimes gives the update, depending on where we
23 made progress. We make those updates. And then every two
24 years we have a reporting out where we're reporting especially
25 to the chancellor and the provost on -- with reports.

1 Q. How regularly are you planning to be reporting out as of
2 this report?

3 A. It's -- well, we're reporting -- so these are descriptions
4 of our activities, and we're on a regular schedule of every two
5 years, as well as if there was something that we learned
6 earlier than that, we would report that out earlier.

7 Q. I now want to set the document aside and ask you a few more
8 questions about the work of this committee.

9 What are your impressions of the work of this group?

10 A. I mean, we've done a tremendous amount of work that -- it's
11 an absolutely committed group of people who are together to
12 make a major effort at meeting the charge. We are -- it's a
13 very -- it's a difficult charge, and we are working to ensure
14 that we are addressing it with everything we could bring to the
15 question. And we're taking spaces where we see that there
16 might be a promising space and ensuring that we are devoting
17 analytic attention and -- attention to it through literature
18 reviews and through studying and through data, and we're
19 learning from our areas. But at the same time we're listening
20 to the literature, and we're listening to reports about how
21 well certain kinds of plans are -- operate at this time.

22 So these are the kinds of things that are -- just we are
23 taking in the information from the overall literature in the
24 nation, as well as working with the data that we have about the
25 admissions process, and trying to have a deep dive about -- an

1 understanding of the holistic process we have and whether we
2 can -- removing race and ethnicity from this question --
3 overall from this process can generate a class that is about
4 the same in academic preparedness and racial/ethnic diversity.
5 Q. There's been a criticism made in this case about the fact
6 that the committee, and the Data Analytic Subcommittee
7 specifically, had not run any simulations of race-neutral
8 alternatives at the time of the interim report.

9 What is your response to that?

10 A. I -- so it's an interesting kind of statement because it
11 implies there's a certain type of analysis -- there's one
12 analysis that should be a set of analyses that are -- describe
13 the answer, and what I think our committee has shown through
14 our literature review and following up from prior work is that
15 there isn't quite an answer at this point, and we really wanted
16 to understand our -- our admissions process very well. And
17 this is one approach to understanding this -- this entire
18 process and whether we can remove race and ethnicity from the
19 admissions process and generate our outcome that we may have.

20 Q. Why has the university taken this particular approach to
21 this question instead of just running simulations?

22 A. Well, I think it's because we can contribute overall to an
23 understanding of this question. If there's actually a
24 solution, we would like to be able to rigorously examine what
25 that might be, and we would like -- we understand that we would

1 not be the only institution that would potentially benefit from
2 a solution that we might develop. So we think locally it's
3 important for us to understand, but also we think some of the
4 kind of work that we're doing might help with the dialogue
5 nationally overall. So this is our -- we are concentrating on
6 understanding for our university if there is a solution,
7 because we haven't seen one yet.

8 Q. And at the appropriate time, would the university run
9 simulations as needed?

10 A. Yes, that's -- yes.

11 Q. But as of the interim report, that was not something that
12 the --

13 A. Yes. As of the interim report date, yes.

14 Q. I want to ask you now about the ultimate question that the
15 committee was charged with and what it had concluded as of the
16 date of the interim report.

17 Had -- at that time had the university identified any
18 potential race-neutral alternative that looked like it might
19 work about as well?

20 A. At the time of the report, no.

21 Q. What do you understand that concept to mean, "about as
22 well"?

23 A. It means that really within -- that we would look for a
24 solution that would allow us to talk about an incoming student
25 body that is approximately -- is academically prepared at

1 approximately the levels that we are -- have seen in the past,
2 and we -- that the racial diversity of our class and the
3 diversity really defined more broadly of our class is about the
4 same as we have seen in the past, and that we can -- that if
5 there was a solution that would be -- that's a solution for --
6 that that's what we're trying to aim for, and we -- that's what
7 we're trying to do with this committee.

8 Q. Would the committee be willing to take a close look at any
9 alternatives that came relatively close in terms of achieving
10 its objectives?

11 A. Yes, that's what the committee is there to do.

12 Q. I want to ask you about the concept of workability. Has
13 there been discussion in the committee about that? Or let me
14 ask: Had there been discussion about that concept as of the
15 interim report?

16 A. Yes. I think we think about that -- yes, as of the interim
17 report, we've thought about that a lot. We thought about the
18 idea of we have this set of goals to produce a class with
19 these kind of -- with comparable levels of academic
20 preparedness and diversity, as well as wanting to make sure
21 that we have a solution that is one where -- that is feasible,
22 is practical, that is one -- practical, is one where we
23 could -- maybe the data that we are using lines up with the
24 natural process of the -- of the student who applies to
25 college; that we could be using it regularly and easily; that

1 the data are -- have certain qualities.

2 Like I talked earlier about the standards that our field
3 uses, the standards of educational psychological education.
4 They are reliable and valid and fair; and so we want to make
5 sure that those solutions are -- have those kinds of qualities.

6 You know, when you think about this, we could have a single
7 variable that defines it all, and that would allow us to have
8 no race and ethnicity included in this situation. Apparently,
9 from The Common App, we might remove that. We would not have
10 race and ethnicity considered. We might have a variable that
11 is the answer. But if it's not present in half of the
12 applicants' files or if there is a set of information where
13 stakeholders are dropping that indicator, it may not be so
14 feasible or workable to have a solution like that.

15 But you could also imagine situations where if there were
16 maybe a third party that had information that could be brought
17 to readers in a holistic review that supplements what they were
18 looking at, that might be something that might be more workable
19 in the process. Where the data are provided, there isn't much
20 cost to individuals -- the institution overall.

21 These are the kinds of things that we think about, is it
22 practical to implement this kind of option. We are part of a
23 system as well, so we have to think, too, the fact we are the
24 flagship and we are part of the university system. So these
25 are also considerations to think about.

1 Q. What would the process be if you were to find a potential
2 option?

3 A. So if we had a potential option, we would need to say
4 immediately what that was and share that with the provost and
5 chancellor. We would need to offer that as a recommendation,
6 and we would be standing ready to do any kind of additional
7 work that was needed if they had additional questions about how
8 to look at that option overall.

9 Q. We've talked about various different aspects of your
10 participation in these areas at the university. As somebody
11 who has been at a professor -- has been a professor at the
12 university for many, many years and serves in a senior
13 administrative role, what's your overall assessment of the
14 importance of racial diversity to the university's mission?

15 A. It's -- it's an essential aspect of the university's
16 mission, especially for the top public university in the
17 country to -- that has -- has it as part -- this is a critical
18 aspect, and it's always been part of the mission of this
19 university to serve our public, serve our state.

20 And this is -- educational benefits of diversity are
21 preparing our flow from a diverse student body and are
22 preparing our students to, first of all, engage in the academic
23 experiences that we're providing and offering in our spaces and
24 all the other activities that go on, and to be prepared for
25 entering society as citizens, as workers, as -- pursuing

1 graduate degrees, pursuing educations, being in all the spaces,
2 being family members, being all the kinds of roles that people
3 are in life. And that's what we're intending to do and have
4 been trying to do.

5 Q. And as someone who has led the committee -- the faculty
6 committee that advises undergraduate admissions for several
7 years, what is your belief about whether race is necessary to
8 be considered as a factor in the admissions process?

9 A. Well, I think just that, it is a factor among many in the
10 process for -- for admitting students, and it's a key -- it's
11 an important factor among other factors to use in the
12 understanding of a student who might be considered for Carolina
13 and who would like to be considered for Carolina.

14 Q. And as someone who has led the university's most recent
15 efforts to consider race-neutral alternatives and has some
16 understanding of some of the prior efforts, what is your
17 assessment of the sincerity and good faith of the university's
18 efforts to consider a good faith -- or to consider
19 alternatives?

20 A. We are -- we are -- we are strongly committed to finding an
21 alternative, if there is one, to -- if there is one out there,
22 and so we are looking, and we are doing -- and we are looking
23 in diverse ways through modeling, through student experiences,
24 through information that hasn't been used before in
25 applications. These are -- through essays, for example. These

1 are different kinds of directions to ensure that we are
2 understanding this and looking to see if there's a solution
3 that would not involve the use of race and ethnicity in the
4 holistic review of our students.

5 Q. Thank you, Dr. Panter.

6 **THE COURT:** All right. It is now 12:25. We will
7 recess for lunch.

8 You may step down.

9 **THE WITNESS:** Thank you.

10 **THE COURT:** Thank you so much.

11 We will recess for lunch, and we will resume at 1:25.

12 (A noon recess was taken from 12:24 p.m. until 1:25 p.m.;
13 all parties present.)

14 **THE COURT:** Yes, sir, you may proceed.

15 And, ma'am, you may take your mask off.

16 **THE WITNESS:** Thank you.

17 **MR. MCCARTHY:** Thank you, Your Honor.

18 **THE COURT:** Uh-huh.

19 **CROSS-EXAMINATION**

20 **BY MR. MCCARTHY:**

21 Q. Good afternoon, Dr. Panter.

22 A. Good afternoon.

23 Q. I'd like to discuss a few topics, starting with the
24 Committee on Race-Neutral Strategies.

25 The Committee on Race-Neutral Strategies was announced by

1 the Advisory Committee on Undergraduate Admissions on
2 February 25, 2016, correct?

3 A. I'm sorry. I don't have the exact date.

4 Q. Okay. We can look at DX48. This was the meeting of the
5 Advisory Committee on Undergraduate Admissions.

6 A. Yes, that's correct.

7 Q. Okay. So the date is correct, February 25, 2016?

8 A. Yes, that's correct.

9 Q. Thank you.

10 You have been chair of the Committee on Race-Neutral
11 Strategies since the outset, correct?

12 A. Yes.

13 Q. And one of the committee's charges is evaluating whether
14 there are race-neutral alternatives that would allow UNC to
15 achieve the diversity it seeks without sacrificing the academic
16 quality of the entering class or imposing intolerable
17 administrative expense, correct?

18 A. Correct.

19 Q. And the Committee on Race-Neutral Strategies met 15 times
20 from the spring of 2016 through April 9, 2018, correct?

21 A. Yes.

22 Q. As of June 19, 2017, after ten meetings and more than a
23 year as chair of the committee, you had not figured out what
24 would be an intolerable administrative expense, correct?

25 A. Correct.

1 Q. In evaluating the costs and benefits of race-neutral
2 alternatives, the committee considers the cost of UNC's current
3 use of race in admissions decisions, correct?

4 A. Correct.

5 Q. In fact, the committee compares the cost of race-neutral
6 alternatives against a baseline of what UNC does now, correct?

7 A. I'm trying to understand your question. So what we are
8 charged to do is to think about comparable classes that would
9 be built and entering classes, so that's what I understand your
10 question to be.

11 Q. And -- and the committee we just mentioned evaluates the
12 cost and benefits, correct, of race-neutral alternatives?

13 A. Yes. To the extent that we can, yes.

14 Q. And it compares the costs against the baseline of the costs
15 of UNC's current use of race?

16 A. I'm not sure I know what the current -- the exact cost is
17 of the use of race, so I would not say -- I would say no, that
18 I do not know the current costs.

19 Q. I'll ask the question. It will help us out.

20 A. Thank you.

21 Q. At the time of your deposition, you did not know the cost
22 of UNC's present use of race as a factor in admissions
23 decisions, correct?

24 A. Correct.

25 Q. The charge of the Committee on Race-Neutral Strategies

1 makes clear that, under Supreme Court precedent, universities
2 are not required to adopt any alternative that would require a
3 dramatic sacrifice of diversity, the academic quality of all
4 students, or both, correct?

5 A. Yes, correct.

6 Q. As of June 19, 2017, after meeting ten times over 13
7 months, the committee had not defined what constitutes a
8 dramatic sacrifice of diversity, correct?

9 A. Correct.

10 Q. And as of June 19, 2017, after meeting ten times over 13
11 months, the Data Analytic Subcommittee had not even defined the
12 term "diversity," correct?

13 A. I am not sure. I'm sorry. I'm not sure. I'm not sure
14 about that answer.

15 **MR. MCCARTHY:** Can we go to the first deposition,
16 page 196, starting at line 18? And this will go on to the next
17 page, line 10.

18 Q. (By Mr. McCarthy) And I'll read it. I'll let it get on
19 the screen first so you can see it, Dr. Panter.

20 A. Thank you.

21 **MR. MCCARTHY:** Do you want me to read the first part,
22 Mr. Lawrence, and go to the next page? Okay.

23 Q. (By Mr. McCarthy) "Question: If we could go down a little
24 bit further, the last paragraph, in the middle of it, it says:
25 'It will be critical.' Do you see that?

1 "Answer: Hold on one second.

2 "Question: In the middle of the last paragraph. It's
3 three lines down.

4 "Answer: Okay. Yeah.

5 "Question: It says: 'It will be critical to draw on the
6 joint expertise of the group to define exactly what we mean by
7 concepts of diversity, achievement, preparedness, character,
8 promise, and academic success.

9 "Uh-huh, yes.

10 "Question: So has the committee -- sorry. So has the
11 subcommittee defined those terms?

12 "Answer: I think they're working on the definition of
13 diversity."

14 Were you asked those questions, and did you give those
15 answers?

16 A. Yes, I did.

17 Q. At your deposition, as the chair of the Committee on
18 Race-Neutral Strategies, you could not say at what point the
19 university should make the decision or even a recommendation to
20 stop using race in admissions, correct?

21 A. I personally cannot.

22 Q. Your view is that measuring diversity is part quantitative
23 or numbers and part qualitative, correct?

24 A. Yes.

25 Q. At your deposition, your opinion was that even if the

1 student body were comprised of 20 percent African American
2 students, 20 percent Hispanic students, 20 percent Asian
3 American students, you would not -- you would be unable to say
4 whether UNC was sufficiently diverse, correct?

5 A. If I said that at the deposition, then correct.

6 Q. Shall we go to the deposition?

7 **MR. MCCARTHY:** Mr. Lawrence, page 296. It's 296 at
8 line 14. And this will go over to the next page.

9 Q. (By Mr. McCarthy) "Question: How much of this issue
10 relates to what UNC sometimes refers to as compositional
11 diversity? In other words, if the -- if African American
12 students made up 20 percent of the campus populations, and
13 Hispanics did 20 percent, and Asian students 20 percent, and
14 white student the rest, would that be a factor that would --
15 that should bear on whether or not this university continues to
16 use race in admissions?

17 "Answer: Well, I like to think of that question in
18 reference to the paper, the Garces and Jayakumar 2014
19 educational research paper" -- wrong way -- "on dynamic
20 diversity and the understanding that numbers are a part of it.
21 But really, the other piece that's a critical piece is the
22 context of the institution and the interactions that are
23 ongoing and the nature of the interactions and the context of
24 the -- of what occurs for students on this campus. So it is a
25 partial -- numbers are necessary, but not sufficient kind of --

1 under -- to our understanding of dynamic diversity, and I
2 think we should really think about different ways that are in
3 different spaces that our students are being supported and are
4 having positive, meaningful interactions across race."

5 Was that -- were you asked that question, and did you give
6 that answer?

7 A. Yes, I did.

8 Q. In fact, you were unable to state whether UNC would be
9 sufficiently racially diverse if all of the major racial groups
10 were at equilibrium and had the same share of the campus
11 population, correct?

12 A. Correct.

13 Q. As of June 19, 2017, after meeting ten times over 13
14 months, the committee had not defined what constitutes a
15 dramatic sacrifice of academic quality, correct?

16 A. Correct.

17 Q. I'd like to turn briefly to the Educational Benefits of
18 Diversity Working Group.

19 In assessing how the university achieves the educational
20 benefits of diversity, the Educational Benefits of Diversity
21 Working Group focuses on many forms of diversity, but primarily
22 on race and ethnicity, correct?

23 A. Correct.

24 **MR. MCCARTHY:** Nothing further, Your Honor.

25 **THE COURT:** All right. Anything further?

1 **MS. TORRES:** No, not from the Intervenors.

2 **MS. BRENNAN:** No questions, Your Honor.

3 **THE COURT:** All right. Then we can release this
4 witness?

5 **MS. BRENNAN:** Yes.

6 **THE COURT:** You may step down. Thank you.

7 **THE WITNESS:** Thank you.

8 (The witness left the stand.)

9 **MS. BRENNAN:** Your Honor, at this time we need just a
10 moment to change up in the courtroom because the next witness
11 is one of the Intervenor witnesses, if that would be all right.

12 **THE COURT:** That would be fine.

13 **MS. TORRES:** And I do apologize. Ms. Polanco is on
14 her way. She ran into car trouble, and so she is going to be
15 here in about 15 to 20 minutes. And we had anticipated cross
16 being a little bit longer, so we didn't bring it to the Court's
17 attention until now. So I don't know if the preference is to
18 convene again in 20 minutes.

19 **THE COURT:** Understood. So let us recess court for 20
20 minutes.

21 (An afternoon recess was taken from 1:40 p.m. until 2 p.m.;
22 all parties present.)

23 **MS. TORRES:** And we do have our witness here. Thank
24 you.

25 **THE COURT:** All right.

1 **MS. TORRES:** And thank you to the parties as well.

2 So Ms. Polanco.

3 **THE COURT:** If you would come to the witness stand.

4 And if you would tell me your name for the record again.

5 **MS. TORRES:** Genevieve Bonadies Torres, and for the
6 transcript, Torres is fine.

7 **THE COURT:** All right. Thank you.

8 **CECILIA POLANCO, INTERVENORS' WITNESS, SWORN**

9 **DIRECT EXAMINATION**

10 **BY MS. TORRES:**

11 **THE COURT:** Yes, ma'am.

12 **MS. TORRES:** Okay.

13 **THE COURT:** You may take your mask off.

14 **THE WITNESS:** Thank you.

15 **THE COURT:** Yes.

16 Q. Good afternoon, Ms. Polanco. Can you share with us, how
17 are you connected to this case?

18 A. I'm connected to this case as a Student-Intervenor. I got
19 involved a few years back to advocate for race-conscious
20 admissions at UNC.

21 Q. And briefly why does race-conscious admissions matter to
22 you?

23 A. It matters to me because I think it's an important lens
24 through which to evaluate students, look at the different
25 things that they bring to the table with their identities; and

1 | there's distinct things that have to go -- do with someone's
2 | racial or ethnic background that could be barriers when it
3 | comes to accessing higher education. So I think it's important
4 | to look at it and consider it during admissions.

5 | Q. And when did you graduate from UNC?

6 | A. I graduated in the spring of 2016.

7 | Q. And what did you study?

8 | A. I was a global studies major, health and the environment,
9 | and I minored in geography.

10 | Q. And did you receive any awards or recognitions during your
11 | time at UNC?

12 | A. Yes. While I was at UNC, I was a Morehead-Cain scholar,
13 | which is a full merit-based scholarship to UNC. So I -- that
14 | was one of the ways in which I could attend UNC. I was also a
15 | Global Gap Year Fellow, so I took a gap year before college.
16 | And I was inducted into the Order of the Golden Fleece, which
17 | is our highest honorary society at UNC; and my junior year I
18 | received the Martin Luther King Jr. award for my advocacy work
19 | for all students -- equity for all students on campus.

20 | Q. And can you describe some of the advocacy work that you
21 | engaged in which led to this recognition?

22 | A. Yes. I did a lot of extracurricular work outside of my
23 | studies organizing and advocating for students on campus of all
24 | backgrounds, and so when it comes to education equity and
25 | advocacy, that was something that I advocated for a lot and

1 organized around.

2 Q. And can you share with us whether you've remained involved
3 with UNC since graduation?

4 A. Yes, I have remained involved. I donate to the
5 Morehead-Cain Foundation. I also donate to Carolina Covenant,
6 which is a need-based scholarship at UNC, part of UNC's
7 commitment to meet 100 percent of demonstrated financial need.
8 So I would have been a Covenant scholar had I not been a
9 Morehead-Cain scholar. So I still support in those ways.

10 I'm also keeping track of the Latinx community there. I go
11 back and do some speaking with students, some mentorship, and
12 also I've loved to watch the development of the Carolina Latinx
13 Center. It was a collaborative when I was there. We had a
14 multipurpose room in a dorm, and now there's potentially a
15 center with dedicated staff and funding. So I've got my eyes
16 on that, too, hoping to see some -- some better resources for
17 students who are currently there.

18 Q. And what have you pursued professionally since graduating
19 from UNC?

20 A. Since graduating, I committed myself to starting my small
21 business, So Good Pupusas. They're a traditional Salvadorean
22 food. So I started a small business with my mom and my family,
23 and we have a partner nonprofit, Pupusas for Education. So we
24 sell pupusas, and a portion of those proceeds go toward
25 scholarships for undocumented students and students with DACA.

1 I am not an undocumented person, but I -- I'm very cognizant of
2 the rights that I have as being born in the United States,
3 being a citizen, so I've been involved in those sorts of
4 educational efforts.

5 And currently I'm the executive director at SEEDS in
6 Durham. It's a two-acre community garden, youth development
7 center. So I'm still at the intersection of youth development
8 and education access and equity. So I'm pretty happy with
9 where I am right now.

10 Q. And can you describe the demographics of the youth that you
11 serve as part of SEEDS?

12 A. Yes, we serve primarily BIPOC youth -- black, indigenous,
13 students of color -- who attend Durham Public Schools. I
14 attended Durham Public Schools as well. So we aim to serve
15 students who attend Title I schools who benefit from free or
16 reduced lunch. So we aim to, you know, provide after-school
17 programming for them and some youth development around food and
18 nutrition and gardening and farming. So I work with a lot of
19 students who come from a similar background that I do.

20 Q. And as you're aware, this case involves UNC's ability to
21 consider race or ethnicity in admissions. Do you identify with
22 a particular race or ethnicity?

23 A. I don't identify with a race in particular, but I do
24 identify ethnically as Latina or Hispanic, and when I can, I
25 choose to self-identify as Salvadorean American.

1 Q. And where did you grow up?

2 A. I grew up in Durham. I was born in LA, but we moved to
3 Durham right before my first birthday. So I grew up in Durham,
4 went to Durham Public Schools, graduated from Northern High
5 School in Durham, and was raised there with my three older
6 sisters and my parents, and still live there now.

7 Q. And did growing up as a Salvadorean American impact the
8 experiences that you had prior to college?

9 A. I think so. I think that my identities played a big part
10 in my -- in my formation of myself. You know, there was
11 challenges to being Latina and to being a woman of color in
12 Durham, at school. Like, it was something that -- you know, I
13 couldn't hide that part of my identity, and sometimes that
14 made -- that made it so people had prejudice towards me and
15 might have treated me differently because of the way I looked.

16 And so I had some challenges with working with some of my
17 teachers, my counselors on my educational goals because it
18 wasn't something that I think they were used to, but I still
19 found that there were also a lot of educators and teachers who
20 were supportive of me and who encouraged me and saw potential
21 in me, believed in me, wrote recommendation letters for me.

22 So, you know, I think that there has been challenges, benefits
23 and disadvantages and advantages to being Salvadorean American.

24 You know, from my parents, I've learned such a strong value
25 from my education, even though they didn't receive one. You

1 know, that was my priority, and I learned so much about being
2 resilient from them. I learned about advocacy because I had to
3 advocate for them, interpreting or translating sometimes,
4 helping them navigate the systems like the healthcare system or
5 other sorts of systems. So I learned to advocate for them and
6 also for myself through those processes. And, yeah, they -- I
7 think more than anything my parents and my family instilled in
8 me a very deep empathy for others and care for others. Even
9 when we didn't have a lot, we always had enough to share.

10 So, yeah, all of those things were very formative for me in
11 making me who I am.

12 Q. And when did you apply to UNC?

13 A. I applied to UNC in the fall of 2010.

14 Q. And did you choose to share about your ethnic identity in
15 your application to UNC?

16 A. Yes, I self-identified. I checked a few boxes, and I also
17 wrote about it a lot in my essays and in some other parts of my
18 application.

19 **MS. TORRES:** And at this point, Your Honor, I'm going
20 to be discussing one of the sealed exhibits in this case, so I
21 would ask if the audio and video feeds could briefly be shut
22 off.

23 **THE COURT:** Yes.

24 **MS. TORRES:** Okay. Thank you.

25 Q. (By Ms. Torres) So we're going to pull up --

1 **THE CLERK:** Give me one second.

2 **THE COURT:** Wait just a moment.

3 **MS. TORRES:** Thank you.

4 (Audio privacy settings were turned on.)

5 **THE CLERK:** Okay. You can go ahead.

6 **MS. TORRES:** Thank you.

7 (Sealed portion of trial testimony occurred next and
8 appears under separate cover filed with the court.)

9 (Audio privacy settings were turned off.)

10 **THE COURT:** All right. You may proceed.

11 Q. (By Ms. Torres) Okay. And so you talked about the
12 diversity within the Latino community. Did that break down any
13 stereotypes based on your personal experience?

14 A. Uh-huh, yes. For me, I mean, I feel like I held a
15 stereotype that, like, educated Latino males didn't exist
16 and -- I mean, it feels a little embarrassing now. But having
17 learned that at UNC, being exposed to it, that was the first
18 time that I -- that I experienced that.

19 So it helped show me another story, a different narrative
20 so that I could -- I could see that even if I hadn't directly
21 experienced it or seen it myself, that, of course, it exists
22 and here they are on campus being part of not just my
23 extracurricular activities but my education as well, in my
24 classes with me, you know, organizing with me. That was --
25 that was a completely new experience for me.

1 Q. And you spoke earlier about UNC's recruitment program.

2 After being admitted to UNC, did you participate in any
3 recruitment programs?

4 A. Yes. After being admitted, you -- I got involved in
5 anything that I could around recruitment because I felt like I
6 was recruited to be at UNC. I felt like UNC wanted me to be
7 there, and I -- I had many encounters with current students who
8 encouraged me to come to UNC. So I wanted to give back in the
9 same way. I loved my school. I wanted other students to see
10 that they could go there, too, and that it could be a place for
11 them.

12 So I got involved with Project Uplift, as well as a
13 counselor. I got involved with the Carolina Hispanic
14 Association pretty quickly and was part of the *Dia de*
15 *Bienvenida* there. I did Tar Heel Target, where you go back on
16 your fall break and talk to students at your -- the high school
17 that you came from from back home.

18 So anything that the university needed -- like, if they
19 needed pictures and quotes for, like, admissions brochures, I
20 was like, yes, I want students to see that there is -- that we
21 exist here and to see representation so that they can want to
22 come here too; they can see themselves here.

23 Q. Thank you.

24 Now, while attending UNC, what was your view regarding
25 whether there was adequate representation of students of color

1 on campus?

2 A. It became pretty apparent once I arrived on campus that
3 there were much, much less students of color than I thought.
4 From the programs, it seemed like there's a lot of students
5 and -- but once you're on campus, it's such a huge campus and
6 so many students that it's still -- the representation still
7 feels low.

8 And so I -- that's why I got involved in recruitment
9 efforts and went back to my high school and talked to students
10 and helped students, you know, applying to college and to UNC,
11 because I knew that we needed to better recruit students to
12 come to Carolina and be part of the community there to -- to
13 improve conditions even for students of color there, because
14 that's the type of work that we did as student activists and
15 student organizers was, you know, how do we make Carolina a
16 better place for ourselves and our peers.

17 Q. And how did the lack of representation make you feel as a
18 student?

19 A. It -- it made me feel -- it definitely made me feel some
20 impostor syndrome. My first year was really challenging being
21 in spaces that were predominantly white, even bigger spaces
22 like 300-student classrooms. So it was -- it was difficult.

23 I often felt alone and a bit invisible in some spaces
24 because I was, again, just the only -- the only person in some
25 of those spaces -- the only Latina in some of those spaces.

1 And, you know, it kind of makes it hard to speak up because I
2 don't want to be the -- or I don't want to be the student that
3 is called on to speak on Latino issues or immigrant issues, and
4 that still happened sometimes. And it was uncomfortable
5 because I didn't want to be a speaker for my whole community
6 just based on my experience. It felt like tokenization a lot.

7 And so -- which is why, you know, I feel like it's
8 important to recruit around that, so that, you know, there are
9 more students there to create that community, to create that
10 safety and comfort for students like myself so that we can go
11 back out into some of these other spaces where we sometimes
12 feel -- were made to feel foreign, made to feel other or like
13 an outsider. You know, I don't -- I didn't want to feel like
14 that, and I didn't want others to feel like that either.

15 Q. And while at UNC, what helped ease your sense of
16 discomfort?

17 A. Anything that reminded me of home, food, the events that I
18 would go to, not just for Latino community but with the black
19 community, the indigenous community. Just being welcomed into
20 a space, being fed. Often being fed made me very comfortable.

21 And just feeling like I could be myself in spaces and seen
22 and appreciated for who I was just helps build that resilience
23 to go back out into my classes and into the greater Carolina
24 community and be able to show up better -- show up better in
25 those spaces because I felt like I had a community to re --

1 like, rejuvenate me and back me up. I felt like I had
2 somewhere to belong.

3 So that all really made a difference to how I was able to
4 navigate Carolina.

5 Q. And just to clarify, how would you describe the student
6 demographics of those spaces where you were able to regenerate?

7 A. I definitely sought out spaces with students of color, you
8 know, students from a similar racial or ethnic background from
9 my own even if it was not the exact same. I found a lot of --
10 a lot of safety in communities of color, and so I sought them
11 out.

12 Q. And are you familiar with UNC's history of racial
13 discrimination?

14 A. Yes, I'm familiar with some of its history.

15 Q. And does that history of discrimination continue to have
16 lingering effects on campus today?

17 A. I would say that it does still today have lingering effects
18 and that we've -- I think that I've seen some progress over the
19 last couple of years.

20 For example, I -- you know, I took a lot of classes in
21 geography. I was in what was then Saunders Hall; and Saunders
22 is a name associated with the Confederacy or the white
23 supremacy movement of the past. And, you know, going into that
24 building with that name, it's a constant reminder of the
25 history and the legacy at UNC. And while I was a student

1 | there, the -- that building was renamed to Carolina Hall, and
2 | so some progress there.

3 | And I was also a student there when Silent Sam was still
4 | up. Silent Sam is a Confederate monument that was on North
5 | Campus; and so I went to a couple of protests there, one where
6 | I witnessed a black woman, one of my peers who was also a
7 | Morehead-Cain scholar, talk about that history there and why it
8 | mattered to her and how it made her feel as a black woman on
9 | campus to see this statue of Silent Sam and be reminded of the
10 | words that were said there when that statue was being put up.
11 | You know, there was mention of whipping a black negro wench,
12 | and that is something that is impactful for anyone to hear.

13 | And to know that that legacy is still there, it does not
14 | make students of color, it did not make me feel safe and
15 | supported by the university that these symbols still remained
16 | and what they represent still lingers around at the university.
17 | And so it's -- it's definitely cause for discomfort there. But
18 | it has since been taken down and removed in 2019, and so that
19 | took -- that was a result of years and years of student
20 | advocacy and organizing.

21 | And so we see the progress happening, and I'm happy to see
22 | that. I'm proud. I'm proud of my school for that, and I try
23 | to contribute in whatever way I can too.

24 | Q. And can you briefly describe the racial demographics of the
25 | students that are leading that progress that you just

1 described?

2 A. Yes. It's mostly black and brown students, indigenous
3 students at UNC who are -- who are, on top of being students,
4 also doing advocacy and organizing work to improve conditions
5 at the university for themselves and their peers.

6 Q. And based on your personal experience, how would a
7 reduction in the number of black and Latino students on UNC's
8 campus affect the educational experience?

9 A. A reduction in the number of black and Latino students, I
10 think that would be harmful. I think it would be harmful for
11 the student body. It would be harmful for the communities of
12 color there to see a reduction in those numbers. For our
13 community to be made even smaller, it would make it harder for
14 the students who are there to mobilize and organize and
15 advocate since there, you know, are -- are limited numbers
16 already.

17 Like, we want to see those numbers go up. We want to see
18 that representation increase so that there are more students
19 who can do some of this work together to improve conditions at
20 UNC.

21 So I don't think -- I wouldn't be happy about it. It would
22 be something I would be upset about. I wouldn't want to see a
23 reduction in those numbers.

24 Q. And based on your experiences working to recruit students
25 and being part of recruitment programs, how would such a

1 reduction affect recruitment of the students of color?

2 A. Well, if there's less students at the university, there are
3 less students to do the recruitment. There's less of a
4 community to see, that is present, that you can be a part of.
5 I think it would definitely affect a prospective student's view
6 of the university if there's not a community there they can see
7 themselves a part of and supported by.

8 I still work with students who are applying to college, and
9 that's one of the things that we look at is are you going to be
10 able to find a community here to thrive, to support you.
11 Because it's so much more than just academics. It's your whole
12 being, how you show up in those spaces, so it has to also have
13 holistic supports.

14 Q. And we focused on your ethnic identity up until this point.

15 Do you also identify with a particular socioeconomic
16 status?

17 A. Yes. I -- I think I grew up low-income, and I'm still -- I
18 still identify as low-income. This job as the executive
19 director is my first full-time salaried job with benefits, so I
20 think I'm on my way up. But, you know, we as a family, we've
21 been low to middle class.

22 Q. And based on your experiences as a student at UNC, how are
23 the benefits of racial diversity similar or different from the
24 benefits of socioeconomic diversity?

25 A. I think there are benefits to both of those identities.

1 They're both -- they can be a marginalized identity, so it's
2 important to consider considerations around both.

3 I think that there are distinct experiences about your race
4 or ethnicity that are different from class, because I could
5 walk around UNC and maybe not visibly be low income. That
6 might not be something people can see about me right off the
7 bat, but my -- my race, my ethnicity, my brown skin is not
8 something that I can hide. It is part of my identity that
9 everyone sees and that everyone makes -- has their own
10 prejudices and makes their own assumptions about me and the way
11 I look, and so it's -- they're different.

12 I think the considerations around both are important as far
13 as the barriers students experience in accessing and thriving
14 in college, but I am really in support of race and ethnic
15 considerations around admissions and, you know, who those
16 students are, what their backgrounds are, and how they show up
17 and make up our whole student body.

18 Q. And you talked about now leading SEEDS as the executive
19 director.

20 How has UNC's racial diversity prepared you for the work
21 that you do today?

22 A. The work I do today, I'm working with diverse students from
23 Durham Public Schools, students with different backgrounds from
24 my own -- similar but also different backgrounds from my own.
25 And I think that the diversity -- the ethnic and racial

1 diversity I experienced at UNC helped me have more of an
2 understanding of people from different backgrounds that are
3 different from my own, which makes me better -- be able to
4 better show up for the students that we are now serving who
5 come from diverse backgrounds and who are from different racial
6 and ethnic backgrounds.

7 And so how do I serve, you know, an indigenous student or a
8 black male student as best I can? I -- I can't speak to their
9 experiences myself because I don't have those lived
10 experiences, but having made friends and loved people from
11 different backgrounds and different ethnicities made it so that
12 I had an awareness; and that awareness, along with empathy,
13 makes it so you can better be understanding of students'
14 experiences and what their challenges are so that we can do --
15 I can do my job as best I can and show up for them and help
16 close some of those opportunity gaps or achievement gaps that
17 they might be experiencing. You know, I've had a lot of
18 exposure that I can now apply in my job.

19 Q. Thank you.

20 **MS. TORRES:** I have no further questions for this
21 witness.

22 **THE COURT:** All right. She is your witness.

23 **MR. HASSAN:** No questions, Your Honor.

24 **THE COURT:** I'm sorry?

25 **MR. HASSAN:** No questions, Your Honor.

1 **THE COURT:** Oh, no questions?

2 **MR. HASSAN:** Yes, ma'am.

3 **THE COURT:** All right. So she is -- you're done.

4 **MS. TORRES:** I am done.

5 **THE COURT:** All right. You may step down. Thank you
6 so much.

7 **THE WITNESS:** All right. Thank you.

8 (The witness left the stand.)

9 **THE CLERK:** Judge, I'll have to get Efren. He was
10 supposed to be on the TV.

11 (Pause in the proceedings.)

12 **THE COURT:** You may proceed.

13 **MR HINOJOSA:** David Hinojosa for the
14 Student-Intervenors.

15 **THE COURT:** All right. Thank you.

16 He needs to be sworn.

17 **MR. WARD:** You are a little faint, though, David, and
18 I have my volume all the way up.

19 **MR HINOJOSA:** Okay. I'll speak louder.

20 **MR. WARD:** Okay. Thank you.

21 **THE COURT:** Let's have him sworn.

22 **MR. WARD:** Are you speaking to me?

23 **THE CLERK:** Yes.

24 **KENNETH WARD, INTERVENORS' WITNESS VIA VIDEO, SWORN**

25 **DIRECT EXAMINATION**

1 **BY MR HINOJOSA:**

2 **THE COURT:** You may proceed.

3 **MR HINOJOSA:** Thank you, Your Honor.

4 Q. Can you please state your name for the record?

5 A. My name is Kenneth Ward.

6 Q. And what is your current occupation?

7 A. I'm currently the executive director of College Bound.

8 Q. And what is College Bound?

9 A. College Bound is an academic mentoring program that's
10 located in Washington, DC. We work with public school students
11 to make sure that they complete high school and college, and we
12 do that through academic mentoring centers. And we launched a
13 virtual component, so we support them through college
14 completion as well.

15 Q. How long have you held that position?

16 A. I've been at College Bound now as executive director for
17 about a dozen years.

18 Q. We'll get back to talking about College Bound in a little
19 while, but I wanted to --

20 A. All right.

21 Q. -- ask you a few questions ahead of that.

22 Are you a UNC-Chapel Hill graduate?

23 A. I'm sorry. Could you repeat yourself, please?

24 Q. Sure. Are you a UNC-Chapel Hill graduate?

25 A. Oh, absolutely. Yes.

1 Q. And what years did you attend?

2 A. I was a full-time student at the University of North
3 Carolina-Chapel Hill from 1980 through 1984.

4 Q. All right. And what did you get your degree in?

5 A. My undergraduate degree was radio, television, and motion
6 pictures.

7 Q. And how do you identify racially?

8 A. Could you repeat the question, please?

9 Q. Yeah. How do you identify racially?

10 A. Oh, as an African American.

11 Q. And where did you grow up as a child?

12 A. I grew up in eastern North Carolina in a small town called
13 Enfield in Halifax County.

14 Q. And how long did you live in Enfield?

15 A. I lived in Enfield my entire life, and then I went to
16 college. I moved to DC, and then I bought a house back in
17 Enfield about four years ago, and I split my time between
18 Enfield and Washington, DC.

19 Q. And who lived in the household when you were growing up in
20 Enfield?

21 A. I'm sorry, David. I did not hear you.

22 Q. Who lived in the household with you when you were growing
23 up?

24 A. Oh, I lived with my mother and my two sisters.

25 Q. And how would you describe the town of Enfield when you

1 were growing up?

2 A. Very small town, probably around 3,000 people. It was
3 divided by Highway 301 and the train line. I guess that's CSX
4 Railroad. One side of the track was the white side of town.
5 The other side of the town was the black side of town. So it
6 was a very segregated town. In my neighborhood, I lived with
7 teachers and principals, nurses. There was a black-owned store
8 in my neighborhood. So we were quite segregated during the
9 time. Farming community, so lots of people had gardens and
10 those kinds of things. But a very small, rural town.

11 Q. And just thinking about the community first, not yet the
12 schools, did you ever observe or experience racial
13 discrimination growing up?

14 A. Oh, absolutely. When I was probably about 6, my mother,
15 she called to my sisters and I to come and get in the car. So
16 we jumped in the back seat; and she rode us north of town less
17 than a mile; and on the left-hand side of the road, there was a
18 cross burning that -- the Klan was actually burning a cross.

19 At the time it really didn't have a lot of significance for
20 me, but later in life, maybe around fifth grade or someplace
21 around that, we were watching -- I don't know if it was *Roots*
22 or something like that, but they showed a Klan crossing -- a
23 Klan cross burning, and it just came back, you know, like a ton
24 of bricks. And I remember asking my mom, you know, that day
25 after school had I seen that before -- had I seen it before or

1 something like that, and she said, "Yeah."

2 And it was interesting because I don't know if it was her
3 deliberate attempt for us to -- for her to teach us that, you
4 know, hate existed or to show us that, but I do remember
5 experiences like that.

6 I remember being maybe 9 going to a 4-H summer camp. She
7 sent me to the local doctor to have a physical to go to summer
8 camp, and there were two sides of the office. One side had all
9 African American folks, as I can recall, and it was pretty
10 crowded. The other side had one white lady, and there were
11 lots of seats. So I just went in and sat on that side with the
12 one white lady.

13 And when I got home that day, my mom asked me, she said,
14 "Where did you sit today when you went to the doctor's office?"

15 And I said, "On the left side," and paid no more attention
16 to it.

17 Years later in conversation, I would discover that prior
18 to, I guess, me being born, it was segregated in that the left
19 side where I sat was all white -- where the white patrons would
20 sit. The right side is where the black patrons would sit. And
21 I think that this was after segregation or after this had sort
22 of become the law, but it was still the practice, and because I
23 was a kid, I didn't know. I just sat where there were empty
24 seats. We laughed about it later.

25 But at the time I looked at the -- I remember the look from

1 the black folk that they gave me, and it meant nothing because
2 I was a kid, but there was this look, like "What is he doing?"

3 So it was a very racially segregated town, and those things
4 were pretty much a part of everyday life.

5 Q. And did you work when you were growing up in Enfield?

6 A. So my first job, obviously, was with my grandfather. He
7 had a farm, so I would help him out. But my first real job was
8 at Beavans drugstore.

9 Sam Beavans, who I believe went to pharmacy school at
10 Carolina, was probably what we would call today a liberal
11 person. He had the drugstore in town or one of the two
12 drugstores in town, but he always hired, like, some of the
13 young black students to work there.

14 And I remember calling Sam's wife, Nina, who was on the
15 school board at the time, asking about summer jobs; and she
16 told me that she wasn't a part of the summer jobs program, that
17 she was actually on the school board, and they didn't do the
18 summer jobs. And maybe a day or two later Mr. Beavans called
19 my grandmother and asked her could I come to work at the
20 drugstore.

21 And so he hired me at the drugstore, and that was another
22 space where I saw just this race piece play out, because the
23 white patrons would come in and they would bring their
24 prescription bottles to be refilled or they would bring their
25 prescriptions, and they would act as though I were not there,

1 and they wouldn't give me the bottles or they wouldn't give me
2 the prescription.

3 And Mr. Beavans would actually make them wait until he had
4 finished whatever he was doing, and then he would instruct them
5 to give their bottles or their prescriptions to me. And this
6 act, for me, it was a piece of him making them see me, but also
7 realizing that they were having to conduct business in a civil
8 manner.

9 So it was really interesting, you know, some of those
10 lessons that I learned in my youth that sort of play out now in
11 my adulthood.

12 Q. So focusing on the schools now, what schools did you and
13 your sisters attend?

14 A. We started school at the all-white school. When we started
15 school -- well, when I started, and my sisters as well, they
16 still had two schools in my hometown. So they were practicing
17 what was called voluntary desegregation. I think Halifax
18 County was probably one of the last places in the state to
19 desegregate.

20 So my mom, along with about five other families, sent me
21 and my siblings to the all-white school, and none of the white
22 kids went to the all-black school. But I was one of three
23 students -- three black students in my first- and second-grade
24 class.

25 By the time I got to third grade, they had struck down this

1 voluntary desegregation, and they just established one public
2 school system in the city, and at that point all of the white
3 students, except for maybe one or two, went to what was called
4 private academies. They were just racially segregated
5 academies, and they were several of those around that popped up
6 in the outskirts of town: One over in Whitaker, just in
7 different parts around Enfield. And that's where all of the
8 white students went.

9 And I remember once asking my mom could I go to the
10 academy, and she just laughed. And she was like, "Boy, they're
11 not for black kids."

12 And so it was -- again, there was this lesson, you know,
13 early on in life that, you know, there was a deliberate
14 segregation, you know, amongst the races here.

15 Q. And did you ever -- once you started going, well, at the
16 white school, did you ever experience or observe any racial
17 discrimination there?

18 A. As early as first grade there were lots of situations
19 where -- there was one black girl in my class, Diane Link.
20 There were two black guys, Milo Scott and myself. So Milo and
21 I would play together, but none of the white girls would play
22 with Diane. They would pick at her. They'd make her cry. It
23 was horrible.

24 I remember being at the water fountain once, and this kid
25 came and tried to push me to jump line, and because around the

1 water fountain it's slippery -- and I just held the water
2 fountain because he was trying to push me out of the way to get
3 in front of me, and he fell, and I was actually punished
4 because he tried to jump line.

5 In second grade, they had two reading groups. They had,
6 like, the blue jays and the eagles. And in my neighborhood, as
7 I said earlier, there were teachers and different folk like
8 that in the neighborhood, so we played school in my
9 neighborhood like that as a pastime. And I was one of the
10 younger kids in the neighborhood. I was the youngest in my
11 family, so I was always a student. I was never the teacher
12 when we played school.

13 And I loved school. And so when I went to school, I was
14 really prepared for school. I was prepared for school. I was
15 already reading, and so I was by far one of the most proficient
16 readers in the class, and we were grouped -- the three black
17 kids were with the blue jays -- I think that was the name of
18 it -- and I could read better than anyone in the class. So I
19 remember the teacher having to move me from the blue jay group
20 to the eagle group because those were the better readers.

21 So at an early age, you know, there was this separation or
22 this -- this -- these challenges that we face, you know, in
23 segregating -- you know, in desegregating the schools.

24 Q. I think you mentioned that you still live in Enfield; is
25 that correct?

1 A. That is correct. And, yeah, the town remains segregated.

2 Q. In what ways? So how does Enfield compare today compared
3 to when you grew up?

4 A. So the 2020 Enfield, as opposed to the 1960s version of
5 this wonderful town, most of the white folk who own the stores,
6 they've educated their kids and their kids have moved away. So
7 the stores and a lot of the houses have gone vacant because
8 they are dying off and their kids have no desire to come back
9 to live here. The town is largely black now, probably 75,
10 80 percent African American.

11 And it's interesting because the neighborhoods, even the
12 house that I ended up buying, was a house that no black folk
13 had owned until I bought that house about four years ago. So
14 these neighborhoods that were largely all white where blacks
15 were excluded are now black neighborhoods, and there are very
16 few whites that live here. The ones that are here are older or
17 have migrated from New York or New Jersey because the real
18 estate property here tends to be affordable.

19 But it's still a challenge. The school systems still
20 suffer. Right now our kids are facing virtual learning, so
21 they are learning from home. And the reality is that a lot of
22 the students don't have Wi-Fi. So what I've done with my
23 sister and my mom is we have a restaurant that we bought a
24 couple years ago, and we've turned that into a learning pod for
25 students because it has Wi-Fi. So students who don't have

1 Wi-Fi at home can actually come to our coffee shop or the cafe
2 and actually have Wi-Fi. And I've worked with the Halifax
3 County Schools to actually sending someone there to staff the
4 building so the kids can come in and have Wi-Fi.

5 So still poverty. They still don't do as well as other
6 places, you know, academically on standardized tests, SAT,
7 those kind of things, and they struggle.

8 Q. And how do those schools compare to the -- I'm sorry. I
9 thought you said something.

10 How do those schools compare to other schools, if you're
11 aware, in Halifax County?

12 A. So the interesting thing is that in Halifax County there's
13 still this racial divided schools. So there's no longer
14 voluntary desegregation, but there are three school systems
15 that exist in this one county. So there's Roanoke Rapids
16 Schools. There's Weldon City Schools and Halifax County
17 Schools. Halifax County Schools really encompasses south
18 Scotland, Enfield, and a lot of the rural areas. Weldon has
19 the Weldon City Schools.

20 And Roanoke Rapids, because of the demographic, which tends
21 to be largely white, more affluent, more employment, higher
22 incomes, the schools tend to do better. Scores are better.
23 Completion is better. Reading and writing test scores,
24 standardized test scores tend to be better as well. So there's
25 still this divide here in the county with the haves and

1 have-nots.

2 Q. All right. So I'm going to switch back to the time when
3 you were getting ready to apply to UNC.

4 How did you do in high school?

5 A. Oh, I loved school. I told you earlier that we played
6 school, like, you know, kids play Nintendo and video games now.
7 We played school. And I'm serious about this. We played
8 school. And I remember the guy who loved to play school most,
9 Steve, Steve ended up being a superintendent. He taught school
10 and was a principal and then ended up being a superintendent.
11 I was always a student. So I loved school. So when I went to
12 school, I thrived. I did incredibly well in school. I
13 graduated valedictorian and actually received a full
14 scholarship to go to Chapel Hill. I received a Pogue
15 Scholarship to go to Chapel Hill.

16 Q. And why did you apply to UNC?

17 A. Oh, certainly because of the rigor. I knew that Carolina
18 was a rigorous school. I had wanted to go to Duke; and then as
19 I got older and wiser and started just sort of looking at the
20 school, Carolina was a far superior, better choice for me.
21 Also, the valedictorian the year before me and the previous
22 year had gone to Carolina, so they sort of set a standard.

23 I was also at a college fair and happened to meet a
24 representative from the university, and he was talking about
25 this scholarship, the Pogue Scholarship. So I got an

1 application. I applied for the scholarship, and that sort of
2 sealed the deal.

3 I had done really well on PSATs, so I got information from
4 Oberlin College and lots of other colleges and really had
5 looked at Oberlin. I was really impressed because they were
6 the first school in the nation to allow women and black
7 students to matriculate there. So that was really impressive.
8 But at the time people just didn't go that far away from home
9 for college, and being a first-generation college student, it
10 sort of made sense for me to stay in state. And when Carolina
11 gave me a full academic scholarship, it was a no-brainer.

12 Q. And I think you said you attended UNC from 1980 to 1984; is
13 that right?

14 A. Yes, sir. I was a full-time student there August 1980
15 through May 1984.

16 Q. Pretty exciting times basketball-wise?

17 A. Carolina was insane. My first year one of my first friends
18 was Sam Perkins, and we remain friends to this day, and he's
19 actually my fraternity brother now. So early on I hung out
20 with the basketball players and forged some really great
21 relationships with James Worthy and those guys. As a matter of
22 fact, we just did a fundraiser here to provide Wi-Fi for
23 students to have hotspots at their houses and stuff like that,
24 and James sent me money for that. So there was this
25 opportunity at Carolina to forge some amazing relationships,

1 and basketball was certainly a cornerstone of that.

2 So my first year at Carolina we were runner-up in the big
3 dance, and then my sophomore year we actually won the national
4 championship. So basketball was a big deal at Carolina.

5 Q. So how was the campus climate like? I mean, was it as
6 joyous as it was inside the arenas?

7 A. So it's interesting, because when there was a game -- even
8 football, basketball, those kinds of games -- something we won,
9 people would toilet paper trees. They would do all those
10 kinds of things. There was this comradery that we were all
11 Tar Heels.

12 But when it came to some other things at the university, we
13 were very much divided. You know, there were issues, you know,
14 about the retention and recruitment of black faculty and staff.
15 So we certainly -- we protested, and we marched and those kinds
16 of things. We rallied around Sonja Stone, who was the first
17 woman of color or black woman to receive tenure at the
18 university. So we rallied around her because she had all of
19 the credentials, but she had been denied or, we felt, looked
20 over. We also rallied around the workers because the workers
21 didn't receive the benefits that they deserved. And there was
22 also issues with recruitment and retention of the black
23 students.

24 So there were some challenges in a lot of those bases, even
25 so much -- so bad that on one occasion, David, there was an

1 advertisement for a Klan rally in The Pit. This advertisement
2 was in *The Daily Tar Heel*, which is a newspaper that our
3 student fees pays for. So there was certainly some challenges
4 on campus that, you know, were on the other end of the spectrum
5 from, you know, this "Go Tar Heel" type of mania.

6 Q. And when you say "we" were rallying around recruitment and
7 retention of black faculty, around Sonja Stone, and you know
8 the workers there at UNC, what was the racial makeup of that
9 group? Who were leading it?

10 A. So it was definitely led by the Black Student Movement, and
11 my roommate at one point was actually president of the Black
12 Student Movement. But white students rallied around that as
13 well. I remember when the notice went out for the Klan rally
14 at The Pit, white students showed up as well. We tended to be
15 or for the most part Carolina tended to be welcoming for
16 differences, but there were some occasions where, you know,
17 racism and the ugliness of racism and I guess the messages of
18 racism just reared its ugly head.

19 Q. And there might be a mention of this already in the record,
20 but can you describe what The Pit is?

21 A. The Pit is the area -- it's a recessed area outside of the
22 student union. So it's in the main part of campus, so right
23 beside the undergraduate library is The Pit. So The Pit is in
24 front of the student store, which is in front of the union; and
25 this is the area where step shows -- like my fraternity, Alpha

1 Kappa Psi, when we would join the fraternity, we would do
2 something called step shows, which are like dances and cheers
3 and chants. We would meet in The Pit to do these. When the
4 dancers or any other types of groups on campus would have
5 performances, they'd meet at The Pit. So The Pit was a
6 central -- or a gathering spot on campus for students, and it
7 remains that to this day.

8 Q. And did you ever participate in any type of extracurricular
9 activities or hold any positions?

10 A. Is this high school or college?

11 Q. Oh. Sorry. In college. Any campus activities or --

12 A. Absolutely. So I was a member of the Order of the Bell
13 Tower. They were interested in doing some alumni outreach,
14 also doing student care packages, those kinds of things.

15 I was also a member of Campus Y, and Campus Y did a lot of
16 community activities. Campus Y was really big in the
17 anti-apartheid effort. Campus Y also had mentoring programs in
18 the Carrboro and Chapel Hill area for underprivileged kids.

19 I, of course, was a member of Kappa Alpha Psi,
20 Incorporated, which was really big on service.

21 And one of the things that probably shaped a lot of this
22 was me being the mic man at Carolina, and the mic man is like
23 the hype man at the football games. He works with the
24 cheerleaders to lead cheers, to lead the crowd, and to keep the
25 spirit up during football games. And I was, of course, the

1 first black person or first African American who was selected
2 as mic man. So that was quite a big deal.

3 Q. Can you describe your experience as the first black mic man
4 at UNC?

5 A. Yeah. It was very similar to being, you know, that black
6 kid in those classrooms. You know, there were the epithets
7 that were thrown at me. There was the nastiness of racism that
8 happened. There were the nasty letters that were sent home to
9 my mom, because at the time you could get a student's
10 information in the registry. So somebody even got my home
11 address, and they were sending, you know, articles home to my
12 mom and those kinds of things. So there was a lot. There was
13 the name-calling.

14 And it ended up -- because I sort of saw myself as -- if
15 you can think about Bill Maher. I sort of saw myself as a Bill
16 Maher before there was a Bill Maher. What I saw the mic man as
17 was as a chance to foster some conversations about inclusion,
18 about race and about alumni and about healing. And, obviously,
19 the administration didn't see it that way because I was fired.
20 And I was called into one of the dean's office, and he told me,
21 he said, "Well, what you're going to do is you're going to
22 resign and say that, you know, your academics don't allow you
23 to continue as the mic man."

24 And I was astonished because nothing like that had ever
25 happened to me. I was valedictorian. I was involved in

1 everything. I was a popular guy. I had never been told that I
2 was going to do something so deliberate like that before, so I
3 was really astonished.

4 And I remember going to talk to Dean Renwick, and Dean
5 Renwick was a black dean at the university. He started the
6 Minority Student on Advising group. He started the
7 preorientation, so he provided lots of supports on the
8 university campus for students of color. So I just thought it
9 would be a really good idea to go and talk with Dean Renwick.

10 And when I sat down with Dean Renwick, what he told me is,
11 "Kenny, you don't want to fight the university on this. Just
12 go ahead and let them have it. Just let them have it."

13 And so this was, I think, that Friday. That Saturday I
14 went to the game, and I noticed that the speaker that was
15 supposed to be turned to the students so I could lead the
16 cheers, the speaker was actually turned the opposite direction
17 and stuff like that. So the sabotage or the, you know, "you're
18 not going to be successful" was already in the works. And so
19 at that point I just decided to quit because there were -- it
20 just wasn't worth me fighting at that the point. It was my
21 senior year. I just thought that, you know, it wasn't worth
22 the fight.

23 Q. I just want to just clarify something for the record. You
24 mentioned as a mic man that you had experienced name-calling
25 from others. What do you mean by that?

1 A. Name-calling was like the N word, like those kinds of
2 things, like name-calling. So there was the -- because, again,
3 they never had a black mic man. So there was some of the N
4 word. It was some of the -- other words that were used.

5 And be cognizant of the fact, too, I went to school in
6 Chapel Hill during the '80s, and so during the '80s,
7 18-year-olds could drink. So before the games, everyone had
8 keg parties, like all the fraternities at frat court had keg
9 parties. Students brought flasks to the game. Students drank
10 openly at the games. I think everyone had blue cups and stuff
11 like that. So a lot of this were folks who had been drinking
12 who sort of let out some of that vileness.

13 I'm not going to attribute it to alcohol, but I think that,
14 you know, it was a space during that time where people were
15 drinking. So I think that they were more casual with what they
16 would say or some of the things that they did.

17 Q. And you mentioned, you know, quite a few instances of
18 discrimination and racism. What sort of counterspaces or
19 places were available to you that helped you and your peers
20 recover from --

21 A. So what's interesting, because I also said, David, I loved
22 learning, is school for me was always the go-to. And I didn't
23 say it earlier, but prior to becoming the executive director of
24 College Bound, I taught school for 15 years. So school for me
25 was a safe space, and in my classroom, I would venture to say I

1 created a safe space for students. And you would think that in
2 a university environment that those classrooms would be safe
3 spaces, and some of those classrooms weren't safe spaces.

4 I remember being in classrooms where I felt like I was the
5 token black or the spokesperson for all black folk. I remember
6 being in a classroom with an English professor who gave us the
7 option to write about anything, and I wrote about the letter
8 from the Birmingham jail by Martin Luther King, and he attacked
9 the content. He didn't attack my writing, and I think I'm a
10 pretty good writer. As a matter of fact, now I write grants
11 for a living, right, so I think that I write well. But he
12 attacked my writing. And when I went to some of these other
13 kids that I knew and asked them about my paper, they were like,
14 "No, this is a great paper. It was the content."

15 So it was that -- that space where you would think you
16 would find refuge that you wouldn't find refuge. So I found it
17 at Campus Y. I found it at Campus Y with like-minded folks
18 there. I found it at the Black Student Movement because there
19 were like-minded folk there.

20 I found it in the classroom of Dr. Sonja Stone because when
21 I was pledging Kappa -- she's a member of Delta Sigma Theta,
22 which is another one of the Divine Nine. There are nine black
23 fraternities and sororities. And so she's a member of one of
24 those sororities. And so I walked into her class -- and as a
25 pledge, there are certain clothes you wear, certain things you

1 carry with you -- she recognized it immediately, and she said
2 to me, "I see you, scroller." And a scroller is what Kappas
3 call their pledges.

4 So to be seen in a class was so important to be validated,
5 to learn about yourself; and I took a number of classes in
6 African American studies and African American literature to
7 learn about Langston Hughes, about African American music. So
8 in those classes, there were professors there who met me, gave
9 me what I came to Carolina for, which was the academic rigor.

10 And, again, as I said, I took lots of classes in, you know,
11 African American studies; and I think that it prepared me so
12 much that when I went to take the practice exam for history --
13 and I wasn't a history major -- I passed the practice exam
14 easily because I had taken all of those courses, and I learned
15 and studied so much at Carolina.

16 I remember Dr. Darnell Hawkins' class. He was another
17 black professor who taught a class on climate delinquency. And
18 in Dr. Hawkins' class, a lot of my white counterparts, they
19 resented, I think, the facts. They attacked him as a person,
20 and they attacked him as a professor. They didn't attack the
21 information, but they would attack him, and so much so that I
22 remember him having to stop a lesson or a lecture one day to
23 tell them, "Hey, look, if you hate my class that much and you
24 can't digest this information, then I suggest that you drop the
25 class because I know you don't do this to my white

1 counterparts." Then he went through this exercise of sharing
2 everywhere that he had studied, his background, his degrees,
3 what he had written, what he had done, because it was such a
4 vile attack on him.

5 I remember just being in that class where he talked about
6 the data. He talked about the inequities. We took a field
7 trip to Polk Youth Center in Raleigh, and we saw for ourselves
8 the -- the overrepresentation of black and brown youth who were
9 locked up in those spaces.

10 So the classroom for me was a space where I found I think
11 most of the support or the solace, in addition to my
12 fraternity. My fraternity brothers were amazing. There were
13 these group of black men who encouraged each other. We studied
14 together. We went home together. I remember the semester or
15 maybe a couple of weeks before my grandmother died, my best
16 friend, who ended up being my Line Brother, came with me to
17 Enfield that week before my grandmother passed. Fast-forward,
18 you know, 20, 30 years; his grandmother passed in Charlotte. I
19 was there with him.

20 So there were these relationships that we made that sustain
21 me up to this day, and there are just really amazing
22 relationships with some really phenomenal people. Excuse me.

23 Q. Thank you, Mr. Ward.

24 Did you associate with students of other races on campus
25 outside the classrooms?

1 A. Absolutely. It's impossible not to. I mean, there were a
2 lot of black folks in context, but we still were a small part
3 of the whole university. So I had white roommates. I had a
4 roommate from Saudi Arabia. So it plays out that at the time I
5 went to Carolina almost all the black students lived on South
6 Campus.

7 And I didn't request a roommate of color my first year, but
8 my roommate ended up being this black guy, Robert Thompson.
9 Robert would go on to law school and do some really great
10 things, but he was my roommate. The second year on South
11 Campus I lived with Jesse Cureton, who is now running some
12 really great programs in Charlotte. He just announced a huge
13 deal where Michael Jordan is giving him money for some things
14 in Charlotte. But that was my roommate my sophomore year. And
15 Jesse, of course, was the Black Student Movement president.

16 So during the regular year all of my roommates were black,
17 except for my senior, obviously, I didn't have a roommate. I
18 had a single in Old West.

19 But in the summer, I lived at Granville Towers, and I had a
20 roommate who was from Saudi Arabia. One summer -- I had a
21 roommate one summer, this white kid, Ted, who was from the
22 mountains; and then I had a roommate who was, like, a soccer
23 star, John, who was really amazing. So I had these other
24 relationships as well with these other folks, and it was great.

25 I remember the Old West experience because there were only

1 two black students in the entire dorm, and it was pretty much a
2 coveted dorm. If you don't know Chapel Hill's campus, there's
3 the Old Well. Old East is the oldest building on campus, and
4 across from Old East on the other side of the Old Well is Old
5 West, and I had a single in Old West my senior year.

6 Again, there were only two black students in that dorm. At
7 that time I was the mic man, and the other black student was
8 the student body president, Kevin Monroe. And Kevin Monroe and
9 I are in still in touch today. We're still friends. He's done
10 a lot of lobbying work in DC, moved back to Charlotte. But we
11 were the only two black students in that dorm, so there was no
12 way that I could not have relationships with, you know, the
13 white students or/and other students in that space.

14 And they were curious. I remember one of the guys, Tory,
15 who came down from Vermont who had never really had
16 conversations with black folk, had never really had black
17 friends, who would ask me very honest questions like about my
18 hair, just about, you know, holidays or about, you know, the
19 family structure and stuff like that, what we did for social
20 events. It was in a space where he wanted to learn. So I
21 remember those relationships. The unfortunate thing is we
22 haven't stayed in touch. That's probably the most unfortunate
23 thing.

24 But I learned about Bahá'í Faith, which I didn't know
25 anything about Bahá'í. I grew up in Enfield. There were

1 Baptists and Baptists and holy people and Baptists. So I
2 didn't have that context. Like, I don't remember there were
3 really Catholics here. I remember being in Chapel Hill getting
4 exposed to falafel, you know, with one of these guys at
5 Hector's, which was right down the street from my dorm. So,
6 yeah, there were a lot of opportunities to develop
7 relationships with people outside of my race.

8 Q. These interactions and relationships, do you feel that they
9 helped you reduce prejudice or break down stereotypes?

10 A. Absolutely. I was in a classroom for 15 years, and one of
11 the mantras and one of the sayings that I had was that
12 everything that you touch, you change, and everything that you
13 change, changes you. And I believe that. I cannot help but to
14 believe that all of these years later that Tory, he's a better
15 person because he met me. I just believe that with all of my
16 heart.

17 If I had not learned about Bahá'í Faith in college -- when
18 I was in Atlanta, before COVID, visiting some of my students
19 who are in college there and we went down to march about Black
20 Lives Matter, we ended up at the Bahá'í Faith Center because
21 they were doing community outreach. It was a very comfortable
22 space for me.

23 The other piece about this that has really helped me in my
24 professional life is that being in that space with all of these
25 folk, especially where I was often the minority, I walk into

1 rooms with a certain confidence that I don't know that I would
2 have without that experience, because I still walk into spaces
3 where black folk just aren't represented.

4 I was on a call the other day with the Friends of the
5 Library Board -- and I just joined the Friends of the Library
6 Board at Carolina. I'm the only black man on that Board, and
7 one of the things that they talked about in that meeting is the
8 need for diversity. The new librarian at Carolina is the first
9 black woman, Elaine; and one of the things that Elaine is
10 working on is this reckoning project. The reckoning project is
11 really meant to tell the stories, and until you have folks in
12 those spaces, you can't tell those stories.

13 I take kids to Africa every year, and one of the proverbs
14 that they talk about is: Until the lions have their
15 historians, the hunter will always be victorious. So I have to
16 show up. I have to be in those spaces. I have to join these
17 boards because otherwise that representation is not there.

18 Q. All right. We've talked about racial diversity, and you've
19 mentioned, you know, several benefits here, both inside and
20 outside of the classroom, that you experienced then. I now
21 wanted to ask more specifically about diversity within
22 diversity.

23 So did all of your black friends at UNC come from the same
24 wealth backgrounds? Did your white friends come from the same
25 wealth backgrounds?

1 A. Absolutely not. I mentioned my best friend Joe earlier.
2 Joe's great grandfather, he seized a Confederate ship in
3 South Carolina and gave that ship to the Union Army. I don't
4 know anybody in Enfield, North Carolina, who has that life
5 story.

6 One of my other really good friends, her father was one of
7 the first black architects in the country. So in this pool of
8 black folk, there are Ranaes, Ams, or a lot of these other
9 folk who were third-, fourth-generation college students. So
10 there was this diversity there that helped shape me as well.

11 And then there were students like the Morehead scholar from
12 New York who just gave me a whole other perspective of my
13 blackness, the way other black folk saw me. When I first came
14 up to Chapel Hill even before I received the Pogue, I met Matt
15 Whitted, Teresa Artis, and Michelle Shiver. Michelle and Matt
16 are doctors now. Teresa is an attorney. These were just some
17 of the pillars I think for me or some of the standards of
18 blackness that, you know, I didn't have necessarily growing up,
19 but that I had when I went to Chapel Hill. And I met them
20 as -- I was 16 when I met them. I knew then that Carolina was
21 where I wanted to go because they looked like me, but they were
22 smart. They were, like, incredibly smart, and they just sort
23 of wrapped their arms around me and embraced me. So even
24 within that diversity there was this nurturing that happened,
25 and it continues.

1 I was on a call on Saturday with Teresa for one of our
2 students, Ogden, who just, unfortunately, died. So there's
3 this space there where all of these folks I went to undergrad
4 with, we're together celebrating his life. So there's much
5 diversity, continues to be that diversity within our -- within
6 our space.

7 Q. So why was it important that, you know, black students, for
8 example, coming from different socioeconomic backgrounds were
9 able to associate with one another, as you observed?

10 A. I think it's incredibly important because we're not a
11 monolith. And even today when I have conversations with folk
12 who don't get it, they think that we're all the same, and we
13 aren't. We're not this monolith. People have different
14 experiences. They bring different things to the table, and we
15 grow and we support one another in the space.

16 A couple years ago I received the Harvey Beech Alumni
17 Award, and look at me, being an educator, receiving that award.
18 No educators have received that award before. Like, the folks
19 before me who had received that award were corporate folks.
20 They had given back thousands of dollars to the university and
21 those kinds of things. But the BAR, the Black Alumni Reunion,
22 who puts on that event every year, they saw the need to
23 recognize someone who was in the community who was doing this
24 work. So that diversity still exists.

25 And even, I guess, two years ago I received the university

1 Diversity Award for the work that I'm doing to sort of create
2 diversity and inclusion at the university, because the
3 university still struggles in that space.

4 Q. Now, as the executive director of College Bound, I think
5 you mentioned that you currently work with students who seek to
6 go to college. Can you describe some of the work -- I know you
7 mentioned some of the mentoring, but can you discuss some of
8 the other work that you've done with the students as part of
9 College Bound?

10 A. So it's interesting that you would ask about, you know,
11 ethnic diversity before this or racial diversity, because I
12 look at College Bound as that. Like, we have students in
13 College Bound that I would venture to say probably would go to
14 college without us. Their parents are college educated. Their
15 parents have found out about us. They know that we have this
16 diverse scholarship program, so they put their kids into our
17 program. Our kids end up mingling and helping other kids who
18 are like me, first-generation college students, who will be
19 first-generation college students who don't understand it, put
20 a face on it. So there is that piece that sort of happens in
21 College Bound.

22 And the program is predicated on seven academic mentoring
23 sites. Every kid has an academic mentor. They work one to one
24 one night a week for two hours. Because of COVID, we're
25 meeting virtually now. So we've been able to meet using a

1 platform so kids can still work.

2 When you look at one of the College Bound academic
3 mentoring sites, it's the best of America. It's like black
4 folk, white folk, Asian folks, Hispanic folks, Republicans,
5 Democrats, slim, fat, all kinds of folk who come together
6 around this common cause, that the students in College Bound
7 can and will go to college. And that's the work that we do.

8 We do college tours. Like, on Veterans Day, we did a
9 virtual college tour. So we took our kids to Lincoln
10 University, which is the oldest HBCU, historically black
11 college and university, so they could get a look at that. And
12 we had some of our students from Lincoln come out and talk to
13 them about Lincoln. We had one of my students who is an alum
14 who is out now working as an assistant principal in DC. He
15 talked to them in that virtual space about the benefits of
16 Lincoln. And then we went to Temple, and we have a bunch of
17 students at Temple. So they came out and talked to our
18 students about Temple.

19 So what we do is we demystify college. We do college
20 tours. We do all of those kinds of things. And probably one
21 of the most important things is we support kids when they get
22 to college, and that's equally important. And I know from
23 being first generation, from having struggled, you know,
24 socially, you know, just navigating all of that, how important
25 that is.

1 So about nine years ago I wrote a grant or I received a
2 hundred thousand dollars to launch a virtual mentoring
3 component. So the virtual mentoring portion of College Bound,
4 when the students graduate from high school, we support them
5 through college to make sure they graduate college. And one of
6 the highlights for me is that one of our students, Ashley, who
7 is actually on my staff now, she went to Carolina on a Pogue
8 Scholarship, so she went to college on the exact same
9 scholarship that I went to school on. So that's some of the
10 work that we're doing.

11 We have one student, Ann, who is at Carolina currently. Of
12 course, that first year she struggled some as well, and some of
13 that has been getting acclimated to being at Chapel Hill where
14 there is a much smaller percentage of black students than she's
15 ever experienced growing up in Washington, DC, over on Fifth
16 Street.

17 So, yeah, that's the work that I do. And we graduate 100
18 percent of our kids from high school. We also have a 100
19 percent college acceptance rate. We do SAT prep. I said
20 earlier we do an international study tour group. So we do all
21 of that type of work with the program.

22 Q. Do you also assist students in applying to college?

23 A. Oh, absolutely. So the application process is critical.
24 So we have what we call college coaches, and the college
25 coaches work with our students to apply. We also have a

1 partnership with Deloitte. So we do SAT prep because we know
2 that prep a lot of times helps to dictate scores on these
3 standardized tests -- on these standardized exams.

4 So it doesn't mean anything about how smart you are or
5 whatever. It's a lot about what you have been exposed to. So
6 this sort of levels the playing field. We just make sure our
7 kids get the test prep that other folks pay thousands of
8 dollars for. We do that for our kids for free. And what we
9 see is that because of test prep -- and they haven't learned
10 any additional information. It's the test prep. But their
11 scores go up 2 or 300 points from pre- and post-test.

12 Q. Is it all about the test?

13 A. I think it's about how to take the test -- that's what
14 we've seen -- because I think that our students work with --
15 the Deloitte practitioners work with our students on how to
16 take the test. So they give them the nuances on how to take
17 the test.

18 Our kids bring to the table certain things that they've
19 learned, you know, at home, that they've learned in the
20 streets, they've learned at school that I think make them a
21 great fit for any college; and what we're seeing with our
22 students is that their graduation rates from college are on par
23 with white students. So what we're trying to do is just make
24 sure that our kids have access because we're quite confident
25 with what they can do once they can get there.

1 Q. Based on your experiences and working with today's youth,
2 which included assisting students in applying to Carolina, what
3 is your impression of the effect a ban of UNC's affirmative
4 action program would have on students of color?

5 A. It's interesting because I think sometimes I romanticize
6 Chapel Hill, right, because I was there and I made
7 relationships and I'm still in touch with Teresa and Patsy and
8 Lisa and all of these folks. So I think sometimes I
9 romanticize it.

10 My kids don't have that as a lens; and often when we visit,
11 we leave and they're like, "Wow. Where are the black people?"
12 Because that's what they see when they go on these campuses.
13 So they see there's this need for diversity, and I think if we
14 didn't have the small numbers that we have, it would be even
15 more challenging to get them to go there because I don't know
16 that kids are wanting to go someplace where every day you have
17 to prove to someone that, you know, I belong here.

18 And it's interesting because I just remember being at
19 Carolina and there were forces that tried to make me feel like
20 I didn't belong, and I think when there are other options, kids
21 will sometimes go for those other options. So I think that is
22 why increasing those numbers is incredibly important for the
23 university.

24 Q. I'll represent to you that in this case Plaintiff has
25 suggested that simply substituting socioeconomic status for

1 race can help counteract losses due to racial diversity.

2 Based on your school and life experiences, do you agree
3 with such an assertion?

4 A. Absolutely not. When I'm with Joe, people don't know my
5 economic background or his. What they see are two black men.

6 When I was in Russia with Rick, I was by far better off
7 than any of the Russians that I met economically. What they
8 saw was my black skin, which was why while I was on the R-bot
9 in Moscow I got called the N word. And the irony is that Rick
10 had never been in the space where a white person had called a
11 black person the N word, and he turned red.

12 And I turned to Rick, and I said, "Did you hear what that
13 guy called you?"

14 I wasn't even going to wear that label. I was there as an
15 ambassador for the U.S. Government with an exchange program
16 through the State Department, and the fact that you are living
17 in Russia and you've heard this epitaph used in America and you
18 think that you can somehow apply it to me, I gave it to Rick.

19 I said, "Hey, Rick. Did you hear what that guy just called
20 you?"

21 I just kept walking. I was seething. I was mad. I was
22 disappointed. I was hurt. But I've been called the N word in
23 Chapel Hill, and it reminded me of being near the Silent Sam
24 statue with my friends. We're going to Franklin Street, which
25 is where all toddlers go, and this white kid comes by on a bike

1 and calls us the N word.

2 So socioeconomics? Our socioeconomics had nothing to do
3 with that. That's skin color and race, and those things are
4 perceptions and how people see you.

5 Q. And are you part of -- I think you mentioned -- well, you
6 mentioned that you have received awards from alumni groups.

7 Are you also part of alumni groups?

8 A. Absolutely. I'm a life member of Kappa Alpha Psi
9 Fraternity, Incorporated; a life member of the GAA. I always
10 participate in the Black Alumni Reunion.

11 I currently work and I just joined the Friends of the
12 Library Board because one of my friends from undergrad reached
13 out to me, and she says, "Hey, Kenny. We've got to get some
14 diversity on this board." And she talked to me and she talked
15 to me, and when I got on the call, I am so glad I joined this
16 board. First of all, I believe in books. Books are everything
17 to me. I grew up in the rural South. Books were my gateway to
18 the world, so I love libraries. It's a natural that I get to
19 work with Elaine as a Friend of the Library.

20 But I'm also a member of the board for the Writing and
21 Learning Center at the university, and again, there's that lack
22 of diversity there.

23 So -- and I think the challenge is not that black folk
24 wouldn't do it, but the folks who are on those boards don't
25 necessarily know black folk to ask to be on those boards. And

1 | there are enough black alumni out there to be on those boards.
2 | When I come back for BAR every year -- I'm obviously not doing
3 | it this year, but for the Black Alumni Reunion during
4 | homecoming, there are hundreds, hundreds of successful black
5 | folk who come back who give to the university. And as a matter
6 | of fact, it is the largest grossing alumni reunion, so much so
7 | now that Chapel Hill, their alumni group, they actually run
8 | that for us now. It was something that we started at a
9 | clubhouse, but it's become the top grossing alumni event of any
10 | at the university.

11 | Q. What effect would a decrease in the number of students of
12 | color at UNC have on the work of the alumni?

13 | A. It's challenging now in good faith to give back to the
14 | university when the university has not, I don't think, done the
15 | best job of recruiting and retaining talented black kids. I
16 | remember being there in the '80s. This was a conversation that
17 | we had in the '80s about the need to recruit and retain and
18 | support these students through graduation, and we're still
19 | having this conversation, what, 40 years later, we're still
20 | having the same conversation.

21 | Q. So how -- how valuable is your degree from UNC-Chapel Hill
22 | in the state of North Carolina and beyond?

23 | A. I think that my degree from the University of
24 | North Carolina at Chapel Hill is priceless. You know, it's an
25 | amazing degree, number one.

1 As I said earlier, when I took the practice exam, I was not
2 a history major, and I didn't take a lot of classes in history
3 at Carolina, but I took a lot of classes in African American
4 studies. And my professors were brilliant. So in learning
5 about African American studies, I learned the history of
6 America; and in doing so, when I took that practice exam -- and
7 my principal I think was worried, like, well, you're not a
8 history major and if you can't pass this exam, they're going to
9 have to let you go. I passed it; and for me, honestly, it was
10 easy.

11 When I received my master's degree, I was in a whole group
12 of folks who were complaining about the rigor of the master's
13 degree program at Trinity College in DC, and I thought it was a
14 joke compared to my undergraduate degree at Chapel Hill.

15 So the degree in and of itself I think is amazing. It has
16 opened doors and opportunities even for funding for College
17 Bound. One of my donors now, a Carolina grad, and has given
18 tons of money to a lot of different organizations. Everybody
19 on their board is from Chapel Hill. So it has made
20 connections. It's opened doors. It's been a great -- great
21 asset, been a great asset. It's one of the best decisions I
22 made.

23 Q. All right. Thank you.

24 **MR. HINOJOSA:** No further questions.

25 **THE COURT:** All right. Yes, sir.

1 **MR. HASSAN:** No further questions, Your Honor.

2 **THE COURT:** No questions?

3 **MR. HASSAN:** No questions. Appreciate hearing his
4 experiences.

5 **THE COURT:** All right. Thank you so much, sir. We
6 are going to release you at this time. We appreciate you being
7 here.

8 **THE WITNESS:** Did you say I'm released?

9 **THE COURT:** Yes, sir. You are released.

10 **THE WITNESS:** Thank you very much, and I would be
11 remiss if I didn't say, Go Heels.

12 **THE COURT:** Thank you, sir.

13 **THE WITNESS:** Thank you.

14 **THE COURT:** So it looks like we have come to a
15 stopping point for the day as all the witnesses you indicated
16 this morning that would be here we have -- we have done.

17 **MR HINOJOSA:** Yes, Your Honor.

18 **THE COURT:** So with that, if there are no matters that
19 we need to address at this time, I am going to adjourn until
20 9:30 in the morning.

21 Are there matters to address?

22 **MR HINOJOSA:** Not for the Intervenors.

23 **MS. HENDERSON:** No, Your Honor.

24 **THE COURT:** Thank you.

25 **MR. HASSAN:** Not for the Plaintiffs.

1 **THE COURT:** All right. Let us adjourn until 9:30 in
2 the morning.

3 (Proceedings recessed at 3:49 p.m.)
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5

6 **C E R T I F I C A T E**

7 I, LORI RUSSELL, RMR, CRR, United States District Court
8 Reporter for the Middle District of North Carolina, DO HEREBY
9 CERTIFY:

10 That the foregoing is a true and correct transcript of the
11 proceedings had in the within-entitled action; that I reported
12 the same in stenotype to the best of my ability and thereafter
13 reduced same to typewriting through the use of Computer-Aided
14 Transcription.

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Lori Russell, RMR, CRR
Official Court Reporter

Date: 12/15/2020